N. Dak., relative to the division of the Bismarck land district—to the Committee on the Public Lands.

By Mr. SPIGHT: Papers to accompany bill H. R. 10745, for relief of heirs of Mrs. Polly Callahan—to the Committee on War Claims.

By Mr. THOMAS of Iowa: Papers to accompany bill granting an increase of pension to Clark Robinson—to the Committee on Invalid Pensions.

By Mr. TIRRELL: Papers to accompany bill granting an increase of pension to Silas Soules—to the Committee on Invalid Pensions.

By Mr. WEEMS: Papers to accompany bill H. R. 9289, granting a pension to Theodore T. Bruce—to the Committee on Invalid Pensions.

By Mr. WOODYARD: Petition of E. J. Woofter and 41 others, of Harrisville, W. Va., in favor of the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

SENATE.

FRIDAY, *January 29, 1904.*

Prayer by the Chaplain, Rev. EDWARD EVERETT HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consant, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved, there being no objection.

REPORT OF COMMISSIONER OF PATENTS.

The PRESIDENT pro tempore laid before the Senate the annual report of the Commissioner of Patents for the fiscal year ended December 31, 1903; which was referred to the Committee on Printing.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

A bill (H. R. 196) granting a pension to Grace E. Carson;

A bill (H. R. 227) granting a pension to Margaret Cotter;

A bill (H. R. 616) granting an increase of pension to Sarah S. Chrysler;

A bill (H. R. 895) granting an increase of pension to Margaret M. Walker;

A bill (H. R. 1908) granting an increase of pension to Harvey D. Barr;

A bill (H. R. 2139) granting an increase of pension to James W. Kight;

A bill (H. R. 2424) granting a pension to Emma Butler;

A bill (H. R. 4200) granting an increase of pension to Milton H. Sweet;

A bill (H. R. 4916) granting an increase of pension to Allen M. Pierce;

A bill (H. R. 5010) granting a pension to Mary F. Hamilton;

A bill (H. R. 5048) granting a pension to William H. Harrison;

A bill (H. R. 5464) granting an increase of pension to Francis M. Northern;

A bill (H. R. 5559) granting an increase of pension to Josephine C. Chase;

A bill (H. R. 5841) granting an increase of pension to Abraham Wilson;

A bill (H. R. 6932) granting an increase of pension to Harvey R. King;

A bill (H. R. 7849) to authorize the county of Poinsett, in the State of Arkansas, to construct a bridge across the St. Francis River at or near the town of Marked Tree, in said county and State;

A bill (H. R. 9292) in relation to business streets in the District of Columbia; and

A bill (S. 2121) to amend an act entitled "An act providing for public printing and binding and distribution of public documents."

PETITIONS AND MEMORIALS.

Mr. LODGE presented a petition of David A. Russell Post, No. 78, Department of Massachusetts, Grand Army of the Republic, of Whitman, Mass., and a petition of E. V. Sumner Post, No. 19, Department of Massachusetts, Grand Army of the Republic, of Fitchburg, Mass., praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

He also presented petitions of the Alden Club, of Franklin; of the Woman's Club of Worcester, and of the Woman's Christian Temperance Union of Dorchester, all in the State of Massachusetts, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. BURROWS presented a petition of the city council of Detroit, Mich., praying that an appropriation be made for the construction of a bridge over the Detroit River; which was referred to the Committee on Commerce.

Mr. HOAR presented a memorial of the national executive committee of the National German-American Alliance of the United States and a memorial of sundry German-American citizens of Montgomery County, Ohio, remonstrating against the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented petitions of the congregation of the Methodist Episcopal Church of Long Lake, N. Y., and of the congregations of the Methodist Episcopal, Presbyterian, and First Baptist churches of Vineland, in the State of New Jersey, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented petitions of the congregation of the Methodist Episcopal Church, of the Epworth League, and of the Woman's Christian Temperance Union, all of Blackstone, in the State of Massachusetts, praying for the enactment of legislation to prevent the nullification of State liquor laws by original packages and other "interstate-commerce tricks;" which were referred to the Committee on the Judiciary.

He also presented a petition of Lodge No. 88, Brotherhood of Railroad Trainmen, of Worcester, Mass., praying for the passage of the so-called Grosvenor anti-injunction and conspiracy bill; which was referred to the Committee on the Judiciary.

He also presented the memorial of F. H. Gibson, of Wellesley, Mass., remonstrating against the passage of the so-called anti-injunction bill; which was referred to the Committee on the Judiciary.

He also presented the memorial of F. H. Gibson, of Wellesley, Mass., remonstrating against the passage of the so-called eight-hour bill; which was referred to the Committee on Education and Labor.

He also presented a petition of the Board of Trade of Boston, Mass., and a petition of the Board of Trade of Gloucester, Mass., praying for the enactment of legislation providing for the destruction of derelicts in the North Atlantic Ocean; which were referred to the Committee on Naval Affairs.

He also presented a petition of the Board of Trade of Boston, Mass., and a petition of the Board of Trade of Gloucester, Mass., praying for the establishment of a permanent treaty of arbitration between the United States and the United Kindom of Great Britain and Ireland; which were referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Boston, Mass., and a petition of the Board of Trade of Gloucester, Mass., praying for the enactment of legislation to reorganize the consular service of the United States; which were referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Boston, Mass., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Board of Trade of Gloucester, Mass., praying for the enactment of legislation to create a commission to consider and recommend legislation for the development of the American merchant marine; which was referred to the Committee on Commerce.

He also presented a petition of the Merchants' Association of Boston, Mass., praying for the enactment of legislation to place coal permanently on the free list; which was referred to the Committee on Finance.

He also presented the petition of Mrs. Moore Murdock, national commandant of the Dames of 1846, praying for the enactment of legislation to increase the pensions of veterans of the Mexican war; which was referred to the Committee on Pensions.

He also presented petitions of H. M. Warren Post, No. 12, of Wakefield; of E. V. Sumner Post, No. 19, of Fitchburg, and of David A. Russell Post, No. 78, of Whitman, all of the Department of Massachusetts, Grand Army of the Republic, in the State of Massachusetts, praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

He also presented petitions of W. L. Nye and 24 other citizens of Berkshire County; of the Worcester Woman's Club, of Worcester; of the Woman's Christian Temperance Union of Westfield, and of the Waltham Woman's Club, of Waltham, all in the State of Massachusetts, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented the petition of J. B. Ireland and 10 other citizens of Athol, Mass., and a petition of the Woman's Christian Temperance Union of Blackstone, Mass., praying for the enact-

ment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of sundry citizens of New Haven, Conn., praying that before the final ratification of the Hay-Varilla treaty the action of the United States may be subjected to a careful and deliberate investigation; which was referred to the Committee on Foreign Relations.

Mr. McCOMAS presented a petition of Local Division No. 5, Ancient Order of Hibernians, of Baltimore, Md., praying for the enactment of legislation providing for the erection of a statue at Washington, D. C., to Commodore Barry, "Father of the American Navy;" which was referred to the Committee on the Library.

He also presented a petition of the Chamber of Commerce of Baltimore, Md., praying for the establishment of the principle of arbitration and securing treaties with all foreign nations and to submit differences which may arise to arbitration when they have failed of settlement through diplomatic channels; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Woman's Missionary Society of the Buckingham Presbyterian Church, of Berlin, Md., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. BERRY presented sundry papers to accompany the bill (S. 3642) for the relief of the trustees of the Baptist Church, Pine Bluff, Ark.; which were referred to the Committee on Claims.

Mr. DEPEW presented sundry papers to accompany the bill (S. 3384) for the relief of the heirs and legal representatives of those civilian employees of the Government who were killed by the explosion of gunpowder and 13-inch shell at the United States naval magazine, Iona Island, N. Y.; which were referred to the Committee on Claims.

Mr. CULLOM presented a petition of the Delavan Woman's Club, of Delavan, Ill., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented petitions of L. B. Brown Post, No. 151, of Sheldon; of Hiram McClintock Post, No. 667, of La Grange; of Robert Hale Post, No. 556, of Fulton; of Brewer Post, No. 577, of Walnut; of Rochelle Post, No. 546, of Rochelle; of Vennum Post, No. 796, of Milford, and of Pulaski Post, No. 796, of Pulaski, all of the Department of Illinois, Grand Army of the Republic, in the State of Illinois, praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

Mr. FOSTER of Washington presented a petition of the Good Roads' Association of Island County, Wash., praying for the enactment of legislation providing for the construction of good roads in the country; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the congregation of the German Methodist Episcopal Church, of Walla Walla, Wash., and a petition of the congregation of the First Cumberland Presbyterian Church, of Walla Walla, Wash., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. STONE presented a petition of the Ministerial Association of Springfield, Mo., praying for the enactment of legislation to prevent nullification of State liquor laws and no-license ordinances by so-called "original-package" and other "interstate-commerce" tricks; which was referred to the Committee on the Judiciary.

He also presented a petition of Mound City Council, No. 207, United Commercial Travelers, of St. Louis, Mo., praying for the adoption of an amendment to section 64 of the present bankruptcy law; which was referred to the Committee on the Judiciary.

Mr. SCOTT presented a petition of the congregation of the Methodist Episcopal Church and the Woman's Christian Temperance Union of Amos, W. Va., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. HEYBURN presented sundry papers to accompany the bill (S. 3788) to provide for an examination to determine the feasibility of reclaiming the overflowed lands of the Kootenai River in northern Idaho and Montana; which were referred to the Committee on the Geological Survey.

Mr. PLATT of Connecticut. I present a petition of about 150 leading citizens of New Haven, comprising business men, professional men, and professors of Yale College, praying for a ratification of the Hay-Varilla treaty. I suppose it is really a matter for executive session, but as the treaty has been made public I think I may present it in the open session. I move that the petition be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FRYE presented petitions of the Woman's Christian Temperance Union of Fairfield and of the congregation of the First Baptist Church of Fairfield, in the State of Maine, and of the Woman's Christian Temperance Union of Enfield, N. C., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

PRESERVATION OF FRIGATE CONSTITUTION.

Mr. HOAR. I present a memorial of the Massachusetts Historical Society, Charles F. Adams, president, and others, relative to the preservation of the U. S. frigate *Constitution*. The memorial relates to a matter of great historical interest. I understand that it was written by Mr. Charles F. Adams. It states the case in his accustomed admirable fashion. I ask that it be printed in the RECORD.

There being no objection, the memorial was referred to the Committee on Naval Affairs, and ordered to be printed in the RECORD, as follows:

Memorial.

To the Senate and House of Representatives of the United States:

Your memorialists, the Council of the Massachusetts Historical Society, acting under its instructions, would respectfully call the attention of your honorable bodies to certain facts connected with the United States frigate *Constitution*.

That vessel is now lying at Charlestown, Mass., in a dock also used by the steamships of the so-called White Star Line; she is dismantled, out of repair, and liable at any time to injury from carelessness or accident, if not to destruction. Your memorialists further represent that in the American mind an historical interest attaches to the *Constitution* such as attaches to no other ship in maritime annals except, possibly, the *Santa Maria*, the flagship of Columbus, and the *Mayflower*, both of which disappeared centuries ago. The *Constitution* still remains; and it was the *Constitution* which, in the gloomiest hour of the war of 1812-1814, appeared "like a bright gleam in the darkness." On the 16th of August of that year Detroit, with all its garrisons, munitions, and defenses, was surrendered to the British forces; on the same day Fort Dearborn, at what is now Chicago, was in flames, and with it "the last vestige of American authority on the Western Lakes disappeared." The discouragement was universal, and the sense of national humiliation extreme; for it seemed doubtful if even the interior line of the Wabash could be successfully held against an enemy flushed with success. The prophet of yet other disasters immediately impending was abroad, and, according to his wont, further depressed the already disheartened land. It was in this hour of deepest gloom that, on the morning of Sunday, August 30, the Sabbath silence of Boston was broken and the town stirred to unwonted excitement "as the news passed through the quiet streets that the *Constitution* was below, in the outer harbor, with Dacres," of the *Guerriere*, "and his crew of prisoners on board." Thus it so chanced that the journal which the next morning informed Bostonians of the Detroit humiliation in another column of the same issue announced that naval action which, "however small the affair might appear on the general scale of the world's battles, raised the United States in one-half hour to the rank of a first-class power in the world." The jealousy of the Navy, which had until then characterized the more recent national policy, vanished forever "in the flash of Hull's first broadside." The victory, moreover, was most dramatic—a naval duel. The adversaries—not only commanders, but ship's companies to a man—had sought each other out for a test of seamanship, discipline, and gunnery; arrogance and the confidence of prestige on the one side, a passionate sense of wrong on the other. They met in mid-Atlantic—frigate to frigate. It was on the afternoon of August 19, the wind blowing fresh, the sea running high. For about an hour the two ships maneuvered for position; but at last, a few minutes before 6 o'clock, "they came together side by side, within pistol shot, the wind almost astern, and, running before it, they pounded each other with all their strength. As rapidly as the guns could be worked the *Constitution* poured in broadside after broadside, double-shotted with round and grape; and, without exaggeration, the echo of those guns startled the world." Of her first broadside in that action the master of an American brig, then a captive on board the British ship, afterwards wrote: "About 6 o'clock I heard a tremendous explosion from the opposing frigate. The effect of her shot seemed to make the *Guerriere* reel and tremble as though she had received the shock of an earthquake." "In less than 30 minutes from the time we got alongside of the enemy," reported Captain Hull to the Secretary of the Navy, "she was left without a spar standing and the hull cut to pieces in such a manner as to make it difficult to keep her above water."

The historian has truly said of that conflict: "Isaac Hull was nephew to the unhappy General [who, three days before the *Constitution* overcame the *Guerriere*, had capitulated at Detroit], and perhaps the shattered hulk of the *Guerriere*, which the nephew left at the bottom of the Atlantic Ocean, 800 miles east of Boston, was worth for the moment the whole province which the uncle had lost, 800 miles to the westward. * * * No experience of history ever went to the heart of New England more directly than this victory, so peculiarly its own; but the delight was not confined to New England, and extreme though it seemed, it was still not extravagant."

Therefore it is that the Massachusetts Historical Society, already in 1812 an organization more than twenty years in existence, now directs this memorial to be submitted, she, the oldest among them, speaking through her council for all other similar societies throughout New England. In so doing, it is needless to enter into the earlier and later history of what was essentially the "fighting frigate" of the first American Navy; for, in the memory of the people of the United States, the *Constitution* is, throughout her long record, inseparably associated with feats of daring and seamanship—devotion and dash—than which none in all naval history are more skillful, more stirring, or more deserving of commemoration. How can they be so effectively commemorated as by the pious and lasting preservation of the ancient ship, now slowly rotting at the wharf opposite to which she was launched six years more than a century ago?

And while the name of the *Constitution* is thus not only synonymous with courage, seamanship, patriotism, and unbroken triumph, the ship herself is typical of a maritime architecture as extinct as the galley or the trireme. She slid from the ways at what is still known in her honor as Constitution Wharf, in Boston Harbor, ten months before Nelson won the battle of the Nile and eight years to a day before his famous flagship, the *Victory*, bore his broad pennant in triumph through the Franco-Spanish line off Trafalgar; and your memorialists hold that, in the eyes and minds of the people of the United States, no less an interest and sentiment attach to the *Constitution* than in Great Britain attach to the *Victory*. The *Constitution* in the days of

our deep tribulation did more for us than ever even the flagship of Nelson did for England, and thenceforth she has been to Americans as a sentient being, to whom gratitude is due.

Yet by Great Britain the *Victory* ever has been and now is tenderly cared for and jealously preserved among the most precious of national memorials. As such, it is yearly visited by thousands, among whom Americans are not least in number. The same care has not been extended over the *Constitution*, and yet your memorialists would not for a moment suggest, nor do they believe, that the people, the Parliament, or the Government of Great Britain are more grateful, more patriotic, or endowed with a keener sense of pride than the people, the Congress, or the Administration of the United States. As for the people, the contrary is, in case of the *Constitution*, incontrovertibly proven by the names of the thousands of pilgrims from all sections of the country annually inscribed on her register. So far as the Government is concerned, its failure to take measures for the lasting preservation of the old ship has been due, in the opinion of your memorialists, neither to indifference nor to an unworthy spirit of thrift, but to the fact that, amid the multifarious matters calling for immediate action, the preserving of an old-time frigate, even though freighted with glorious memories, has been somewhat unduly, though not perhaps unnaturally, deferred to a more opportune occasion.

None the less, the *Constitution* "is the yet living monument not alone of her own victories, but of the men behind the guns who won them. She speaks to us of patriotism and courage, of the devotion to an idea and to a sentiment for which men laid down their lives." Therefore your memorialists would respectfully ask that immediate provision be made to the end that the course pursued by the British Admiralty in the case of the *Victory* may be pursued by our Navy Department in the case of the *Constitution*. We accordingly pray your honorable bodies that the necessary steps forthwith be taken for preserving the "fighting frigate" of 1812; that she be renewed, put in commission as a training ship, and at suitable seasons be in future stationed at points along our coast where she may be easily accessible to that large and ever-increasing number of American citizens who, retaining a sense of affection as well as deep gratitude to her, feel also a patriotic and an abiding interest in the associations she will never cease to recall.

And your memorialists will ever pray, etc.

REPORTS OF COMMITTEES.

Mr. BURNHAM, from the Committee on Claims, to whom was referred the bill (S. 2547) for the relief of the owners and crew of the schooner *Ella M. Doughty*, reported it with amendments, and submitted a report thereon.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (S. 3626) to regulate the employment of officers of the Army on the retired list, and for other purposes, reported it with amendments, and submitted a report thereon.

He also, from the Committee on Claims, to whom was referred the bill (S. 803) for the relief of John Stewart, reported it with an amendment, and submitted a report thereon.

Mr. STONE, from the Committee on Commerce, to whom was referred the bill (H. R. 7620) defining the limit of navigation of the Osage River in the State of Missouri, reported it without amendment, and submitted a report thereon.

Mr. LONG, from the Committee on Indian Affairs, to whom was referred the bill (S. 713) for the relief of Rev. Charles Wright, submitted an adverse report thereon; which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 1633) permitting the Kiowa, Chickasha and Fort Smith Railway Company to sell and convey their railroads and other property in the Indian Territory to the Atchison, Topeka and Santa Fe Railway Company, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 2268) to authorize the Absentee Wyandotte Indians to select certain lands, and for other purposes, reported it with an amendment, and submitted a report thereon.

Mr. QUARLES, from the Committee on Military Affairs, to whom was referred the bill (S. 1426) to prevent the desecration of the American flag, reported it with amendments, and submitted a report thereon.

He also, from the Committee on the Census, to whom was referred the bill (S. 3292) amendatory of an act entitled "An act to provide for a permanent Census Office," approved March 6, 1902, reported it without amendment, and submitted a report thereon.

Mr. HOAR. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. 3842) to amend an act entitled "An act amending the civil code of Alaska providing for the organization of private corporations, and for other purposes," approved March 2, 1903, to ask to be discharged from its further consideration, and that it be referred to the Committee on Territories. The civil code of Alaska was considered and reported by the Committee on Territories, which committee a'so had under consideration this subject of corporations in the last Congress.

The PRESIDENT pro tempore. The Committee on the Judiciary will be discharged from the further consideration of the bill, and it will be referred to the Committee on Territories, there being no objection.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 3597) for the relief of Vincenzo Gerardi, of Washington, D. C., reported it without amendment, and submitted a report thereon.

Mr. STEWART, from the Committee on Indian Affairs, to whom was referred the bill (S. 1974) amending the act of Congress approved January 26, 1895, entitled "An act authorizing the Secretary of the Interior to correct errors where double allotments of land have erroneously been made to an Indian, to correct errors in patents, and for other purposes," reported it with amendments, and submitted a report thereon.

Mr. SCOTT, from the Committee on the District of Columbia, to whom was referred the bill (S. 2434) providing for a superintendent of the fire department of the District of Columbia, reported adversely thereon; and the bill was postponed indefinitely.

Mr. FOSTER of Washington, from the Committee on the District of Columbia, to whom was referred the bill (S. 2884) to amend section 895 of the code of law for the District of Columbia, reported it without amendment, and submitted a report thereon.

Mr. PROCTOR, from the Committee on Military Affairs, to whom was referred the bill (H. R. 8748) for the relief of Serenus Kilbourne, reported it without amendment, and submitted a report thereon.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. 3828) to provide for the settlement of certain claims of officers and enlisted men of the Army for the loss or destruction, without fault or negligence on the part of said officers and men, of property belonging to them in the military service of the United States, reported it without amendment, and submitted a report thereon.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 2021) for the relief of John Wesley Hoyt, reported it without amendment, and submitted a report thereon.

ALFONSO ZELAYA.

Mr. PROCTOR. I am directed by the Committee on Military Affairs, to whom was referred the joint resolution (S. R. 34) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Alfonso Zelaya, of Nicaragua, to report it favorably without amendment, and I ask for its present consideration.

The Secretary read the joint resolution; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LOUISIANA PURCHASE EXPOSITION.

Mr. BURNHAM. In the absence of the chairman of the Committee on Printing, I report for him with a favorable recommendation the amendment of the House of Representatives to the concurrent resolution providing for the printing of copies of the statement of receipts and expenditures of the Louisiana Purchase Exposition, and I ask for its present consideration.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

The amendment of the House was, to strike out all after the resolving clause and to insert:

That the Public Printer be authorized and directed to print and bind in paper covers 15,000 additional copies of the statement of the receipts and expenditures of the Louisiana Purchase Exposition from the date of incorporation to September 30, 1903, with the accompanying report submitted by the national commission of said exposition, of which 5,000 copies shall be for the use of the Senate and 10,000 copies for the use of the House of Representatives.

Mr. BURNHAM. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

BILLS INTRODUCED.

Mr. BURNHAM introduced a bill (S. 3933) to amend an act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 3934) granting a pension to Susan E. Bellows; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DEPEW introduced a bill (S. 3935) granting a pension to Mary Cornelia Hays Ross; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FORAKER introduced a bill (S. 3936) granting an increase of pension to Sylvania S. Cheney; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3937) to relieve foreign commerce and acts and contracts in reasonable restraint of trade and commerce among the several States from the provisions of the act to regulate commerce, approved February 4, 1887, and the act to protect trade and commerce against unlawful restraints and monop-

olies, approved July 2, 1890; which was read twice by its title, and referred to the Committee on Interstate Commerce.

Mr. BURROWS introduced a bill (S. 3938) for the relief of George H. White; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. NELSON introduced a bill (S. 3939) granting an increase of pension to James Miller; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BERRY introduced a bill (S. 3940) for the relief of the trustees of the Old School Presbyterian Church, of Helena, Ark.; which was read twice by its title, and referred to the Committee on Claims.

Mr. McLAURIN introduced a bill (S. 3941) for the relief of James W. Watson, captain in Tenth Cavalry, United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PETTUS introduced a bill (S. 3942) to carry into effect the findings of the Court of Claims in the matter of the claim of John A. Johnson, administrator of the estates of Maria Johnson and Sarah E. Ware, deceased; which was read twice by its title, and, with the findings of the Court of Claims, referred to the Committee on Claims.

Mr. MITCHELL introduced a bill (S. 3943) to encourage telegraph communication between the United States, Alaska, the Aleutian Islands, Siberia, Manchuria, China, the Japanese Empire, and the Philippine Islands; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. LODGE introduced a bill (S. 3944) for the relief of G. F. Tarbell; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Finance.

Mr. FOSTER of Washington introduced a bill (S. 3945) granting an increase of pension to Lewis Lewis; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3946) granting an increase of pension to Jesse Bright; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOAR introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 3947) granting an increase of pension to A. L. Kneeland;

A bill (S. 3948) granting a pension to Thomas O'Connor;

A bill (S. 3949) granting an increase of pension to Benjamin F. Spear; and

A bill (S. 3950) granting an increase of pension to Edward Blaisdell.

Mr. HOAR introduced a bill (S. 3951) to correct the military record of Michael J. Kelley; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DEPEW introduced a bill (S. 3952) for the relief of James E. Simpson, jr., Alfred H. Simpson, and Willie E. Simpson, surviving copartners of the firm of J. E. Simpson & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. GALLINGER introduced a bill (S. 3953) granting an increase of pension to Thomas L. Sanborn; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HEYBURN introduced a bill (S. 3954) providing for the deposit of a model of any vessel of war of the United States Navy bearing the name of a State or city of the United States in the capitol building or city hall of said State or city; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also introduced a bill (S. 3955) granting a pension to Amelia Xandry; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McCREARY introduced a bill (S. 3956) granting an increase of pension to Patrick Fleming; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3957) granting a pension to Isabel F. Easum; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FRYE introduced a bill (S. 3958) granting an increase of pension to Julia A. Daily; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT TO URGENT DEFICIENCY APPROPRIATION BILL.

Mr. FORAKER submitted an amendment proposing to appropriate $2,000 to pay the superintendent of insurance of the District of Columbia the balance of his salary due from July 1, 1902, and from July 1, 1903, as fixed by the amended code of law of the District of Columbia, approved June 30, 1902, intended to be proposed by him to the urgent deficiency appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

HEARINGS BEFORE COMMITTEE ON PUBLIC LANDS.

Mr. HANSBROUGH submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Public Lands be, and the same is hereby, authorized to employ during the Fifty-eighth Congress a stenographer, from time to time as may be necessary, to report such hearings as may be had by the committee or its subcommittees in connection with any matter which may be before the committee, the expense thereof to be paid out of the contingent fund of the Senate, and that the committee be authorized to have such hearings printed.

LAND IN ST. AUGUSTINE, FLA., FOR SCHOOL PURPOSES.

Mr. TALIAFERRO. I ask unanimous consent for the present consideration of the bill (S. 3479) making provision for conveying in fee certain public grounds in the city of St. Augustine, Fla., for school purposes.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Education and Labor with an amendment, to strike out all after the enacting clause and insert:

That any conveyance heretofore or hereafter made by the mayor of St. Augustine, Fla., to the board of public instruction of St. John County, Fla., of that certain tract or parcel of ground situate in the said city of St. Augustine, Fla., known as the "old burnt hospital lot," heretofore conveyed by the United States Government to the mayor of St. Augustine, Fla., in trust for school purposes, be, and the same is hereby, authorized, ratified, and confirmed; and the title in and to said lot, upon such conveyance being made, shall vest the title to said ground in fee in the board of public instruction of St. John County, Fla., aforesaid. And the said board of public instruction of St. John County, Fla., is hereby authorized to sell and convey said lot of ground, and to use and appropriate the proceeds thereof in the erection and construction of a public school building in said city of St. Augustine, Fla.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DIPLOMATIC CORRESPONDENCE RELATIVE TO PANAMA, ETC.

The PRESIDENT pro tempore. The Chair lays before the Senate the resolution submitted by the Senator from Texas [Mr. CULBERSON], which will be stated.

The SECRETARY. Senate resolution 104, by Mr. CULBERSON, requesting the President to inform the Senate whether all correspondence, etc., between the Department of State and the legation of the United States at Bogota has been sent to the Senate.

Mr. CULLOM. The Senator from Mississippi [Mr. McLAURIN] is entitled to the floor.

Mr. COCKRELL. The Senator from Mississippi has yielded to me for a few moments.

Mr. President, in the discussion yesterday something was said in regard to what occurred in the Administration of President Cleveland, and it was attempted to make that a precedent for a refusal to pass this resolution. That was an entirely different case. I read from the Journal of the Senate, which shows the view, and what was the subject-matter of the controversy there. Here is a resolution that was passed by the Senate on the 18th of February, 1886. It was reported by Senator Edmunds:

Resolved, That it is, under these circumstances, the duty of the Senate to refuse its advice and consent to proposed removals of officers the documents and papers in reference to the supposed official or personal misconduct of whom are withheld by the Executive or any head of a Department when deemed necessary by the Senate and called for in considering the matter.

That shows the gist of the contention at that time. Now, I read from Mr. Cleveland's message of March 1, 1886, on page 350 of the Journal of that time. I will read only a few extracts, simply to show what was the contention:

While, therefore, I am constrained to deny the right of the Senate to the papers and documents described, so far as the right to the same is based upon the claim that they are in any view of the subject official, I am also led unequivocally to dispute the right of the Senate, by the aid of any documents whatever, or in any way save through the judicial process of trial on impeachment, to review or reverse the acts of the Executive in the suspension, during the recess of the Senate, of Federal officials.

I believe the power to remove or suspend such officials is vested in the President alone by the Constitution, which in express terms provides that "the executive power shall be vested in a President of the United States of America," and that "he shall take care that the laws be faithfully executed."

The Senate belongs to the legislative branch of the Government. When the Constitution by express provision superadded to its legislative duties the right to advise and consent to appointments to office and to sit as a court of impeachment, it conferred upon that body all the control and regulation of Executive action supposed to be necessary for the safety of the people; and this express and special grant of such extraordinary powers, not in any way related to or growing out of general Senatorial duty, and in itself a departure from the general plan of our Government, should be held, under a familiar maxim of construction, to exclude every other right of interference with Executive functions.

In the first Congress which assembled after the adoption of the Constitution, comprising many who aided in its preparation, a legislative construction was given to that instrument in which the independence of the Executive in the matter of removals from office was fully sustained.

Now, about the law of 1867, Mr. Cleveland said:

> The first enactment of this description was passed under a stress of partisanship and political bitterness which culminated in the President's impeachment.
>
> This law provided that the Federal officers to which it applied could only be suspended during the recess of the Senate when shown by evidence satisfactory to the President to be guilty of misconduct in office, or crime, or when incapable or disqualified to perform their duties, and that within twenty day's after the next meeting of the Senate it should be the duty of the President "to report to the Senate such suspension, with the evidence and reasons for his action in the case."
>
> This statute, passed in 1867, when Congress was overwhelmingly and bitterly opposed politically to the President, may be regarded as an indication that even then it was thought necessary by a Congress determined upon the subjugation of the Executive to legislative will to furnish itself a law for that purpose, instead of attempting to reach the object intended by an invocation of any pretended constitutional right.
>
> * * * * * * *
>
> The requests and demands which by the score have for nearly three months been presented to the different Departments of the Government, whatever may be their form, have but one complexion. They assume the right of the Senate to sit in judgment upon the exercise of my exclusive discretion and executive function, for which I am solely responsible to the people from whom I have so lately received the sacred trust of office. My oath to support and defend the Constitution, my duty to the people who have chosen me to execute the powers of their great office and not to relinquish them, and my duty to the Chief Magistracy, which I must preserve unimpaired in all its dignity and vigor, compel me to refuse compliance with these demands.

Mr. President, this is not that case. There is no parallel between them. That was in regard to removals from office. That was the main contention. I am far from any desire to encroach upon the constitutional prerogatives of the President. I believe that the perpetuity of our institutions and of our Government will depend upon keeping the different branches of the Government separate and distinct, that the legislative branch should not encroach upon the executive branch nor upon the judiciary, nor should either of them encroach upon the rights of the legislative branch.

Mr. President, under our Constitution the President has the right to remove an incumbent from office, and we can ask him no questions about it. That has been determined from the beginning. But when it comes to a finished act, in which the concurrence of the Senate is necessary, the Senate has a right, a constitutional right, to all the papers and documents relating to that question. I do not think there can be any doubt of this.

I was very much astonished that the distinguished Senator from Wisconsin [Mr. SPOONER] took such a broad position in regard to it. I say we have no right whatever to inquire of the President, to demand of him anything in regard to an unfinished matter. If he is about to negotiate a treaty, we have no right to inquire what he is doing. We have no right to do anything of the kind. But when he has negotiated a treaty and that treaty has to be ratified by the Senate before it becomes effective, and we have to advise and consent to its ratification, we then have a right to know why he did it and what are the papers in regard to it. That, I say, is a clear right, and I do not believe there is any President who will refuse it.

This resolution is not for the purpose of casting any reflections upon the present Executive. There is no such intention. It is simply that we ask what are all the papers now in regard to this transaction. There is nothing upon the record which shows that the President has transmitted all of them. He has not said so. We do not know whether there are any not transmitted or not. If there are any, we should like to see them. Such a request never has been refused, I believe, in a solitary instance. The information can be given to us, and it must be confidential. This resolution asks that it be given to us in confidence—that it be given to the Senate in executive session.

Now, where is the instance when such a request has been refused? Suppose it is a very important matter; have we not had precedents in the past? Have we not had them here? Have not Senators now upon this floor seen a case in which a paper was sent here confidentially and exhibited, and that paper is not to be found upon any record? It is not upon our records here. It is not in any printed publication. It is not in any one of the numerous communications that were made to the Senate in regard to the transaction about which it was furnished us. There are other instances in the history of the country.

If there is anything that the President does not think at this time it would be judicious to make public, still he ought to communicate it to us. He can send the original paper here and we will treat it, as it always has been treated when such communications have been made to us, in the strictest confidence, and no record will be made of it.

This is not an encroachment, in my judgment, upon the rights of the Executive in any shape, manner, or form. If it were I would not support it. I believe the distinction is clear and must be apparent to anyone who will examine it. We have no right to make inquiries when it is a matter that is being negotiated—when we are not called upon to do or say anything about it.

But when the act is consummated, when the treaty is agreed upon, and it can not become effective until we have advised and consented to it by the requisite vote in this body, we have the right, then, before we give our advice, before we give our consent, to know the whole transaction in regard to it; and if any of the papers are of such a character that it might not be wise and prudent just at this time that they should be made public, let them be communicated to us in confidence, as has been done heretofore in matters of very great importance and of a very confidential nature.

Therefore, I shall support this resolution without the words the Senator from Illinois has proposed to insert in it. I do not think that they are at all necessary.

Mr. MITCHELL. May I ask the Senator from Missouri a question?

Mr. COCKRELL. Certainly.

Mr. MITCHELL. Conceding that this is not a parallel case to that under the Cleveland Administration, and I concede that it is entirely different so far as that is concerned, conceding that it is a different case, can not the Senator from Missouri conceive of a case where we have a right to call upon the President to furnish papers wherein it might not be consistent with the public interest to furnish the papers?

Mr. COCKRELL. I will say that probably in nine-tenths of the cases in which Congress might call upon him it would be eminently proper to insert the words "if not incompatible with the public interest." But this is not one of those cases. We are not discussing that kind of a case.

Mr. MITCHELL. Can not the Senator see that even in the consideration of a treaty in reference to which the papers are called for, as in this case, there might be certain papers covered by the resolution that it might not be proper to furnish?

Mr. COCKRELL. I have said that there might be such a case, and I have shown the Senate two cases, practically—I have not named them, but you are all familiar with them—where information was called for, and it was thought by the Executive proper to give it out, and yet the paper itself was sent here. We had it here for inspection, and no record was ever made of it.

Mr. MITCHELL. The Senator from Missouri admits that we have a right to call for these papers, and he admits further that there might be a case where it would be improper and not consistent with the public interest to furnish certain papers.

Mr. COCKRELL. No.

Mr. MITCHELL. Why not then insert the amendment of the Senator from Illinois?

Mr. COCKRELL. No; I did not say it would be improper to furnish them. I say it is right that he should furnish them; but he can furnish them as has been done heretofore. He can send a paper here to the Senate and let the Senate examine it, though he does not want to commit it to a record which may be made for future reference. Let it be sent here and examined and be considered confidential if there is anything in it which is of a confidential nature. We have a right, I say, as a part of the executive authority in completing our part of this treaty, to the information which the President has, and if he does not want to communicate it to us in a public way he has precedents—several of them—for sending the information to us here in a confidential way and letting us examine it.

Mr. MITCHELL. But would it not be the more courteous and appropriate way to first insert in the resolution "if not inconsistent with the public interest;" and then if the President——

Mr. COCKRELL. No; I do not think it would.

Mr. MITCHELL. If he then replies that there are certain papers, there could be a further communication from the Executive.

Mr. COCKRELL. I do not think it is discourteous at all to pass a resolution calling for such information as we have a right to have. If it were anything that was not completed, if it was not a finished matter, if it was not something that we have to ratify or reject, I would say put that clause in, as a matter of course. But there is no necessity for the language to be inserted here. It is tweedledum and tweedledee so far as the practical effect of it is concerned. Why are Senators stickling so over this matter? Whatever the facts are, we should have them, simply because it is a constitutional right the Senate enjoys and it ought to assert it. It is no disrespect to the President when we do assert it and pass something that is clearly within our constitutional power, without any intention to reflect, directly or indirectly or remotely, in any shape, manner, or form upon the President of the United States.

Mr. SPOONER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Wisconsin?

Mr. COCKRELL. Certainly.

Mr. SPOONER. If this is a mere matter of tweedledum and tweedledee, I can not understand why such strenuous objection should be made to putting in the resolution the phraseology we usually do.

Mr. COCKRELL. This is our resolution, and you are trying to force this amendment upon us.

Mr. SPOONER. Your resolution!

Mr. COCKRELL. And this is your amendment. If the resolution goes through it will be a resolution of the Senate.

Mr. SPOONER. I supposed it was a Senate resolution; that it was no more yours than ours.

Mr. COCKRELL. You say "yours" and "ours." This is not a political question.

Mr. SPOONER. No.

Mr. COCKRELL. There is no politics in it in any shape, manner, or form; but we of the minority have been recognized as offering the resolution, and although we have the right, the constitutional right, and when we have told you that it is no reflection on anybody, that it is in pursuance of that constitutional right, yet you try to force an amendment here, for which I see no occasion in the world.

Mr. McLAURIN. Mr. President, I shall endeavor to put the ideas I have in reference to this resolution in as few words as possible, in order to make myself intelligible to the Senate. I must submit at the outset, however, that I am not familiar with precedents which have been discussed by Senators during the consideration of this resolution. I have gotten more information as to those precedents from this discussion than I have from any reading of the precedents themselves.

I will say further that I do not think it proper for a Senator, in discussing any resolution in open Senate, to give expression as to how he is going to vote on the treaty when it comes to its final action in the Senate. That is a matter for executive session, and as much one of the secrets of executive session as anything else.

Before proceeding to a discussion of what I consider the real question contained in this resolution, I want to make an observation in reference to what was said yesterday by the Senator from Illinois [Mr. CULLOM], that this resolution was submitted apparently for the purpose of obtaining some party advantage. It was not introduced for that purpose. I am free to confess that, so far as I am concerned, I am glad when any transaction in the Senate, or in the other House of Congress, or in the executive department redounds to the benefit of the party to which I belong—the Democratic party—but I subordinate all considerations of party interest to my official duty to the entire country.

I can not conceive how there can be anything obtained of advantage to the Democratic party by this resolution, unless there is something behind, as the Senator says has been intimated—I do not think it has been intimated—unless there is something behind that the executive department is not willing for the Senate to know. Assuming, as I do, that there is nothing of that kind in any secret corner, I assert that the best service that can be rendered to the executive department is to give the President the opportunity to make public everything that has been done in reference to the establishment of the Panama Republic if there has not been anything improper done between the officers of this Government and the alleged officers of the so-called Panama Republic, and I assume that there has not been any improper thing done by any officer of our Government.

If the effort were on the part of the Democratic caucus to obtain advantage, the best way to thwart that effort, if there is nothing wrong in the conduct of the Administration in this matter, which I assume to be true, is to make everything public, without reference to the judgment of anybody, and that would be the best answer to any suggestion by anybody or any imputation upon the conduct of any officer of the Administration in connection with either the Panama or the Colombian Government or the Panama or Colombian authorities.

I want to make some observations in reference to the statement that was made yesterday by the junior Senator from Massachusetts [Mr. LODGE] that this resolution was a command to the President. It is not a command, but is cast in most respectful language, and in order to show that I will read the resolution entire:

Resolved, That the President be requested to inform the Senate whether all the correspondence and notes between the Department of State and the legation of the United States at Bogota, and between either of these and the Government of Colombia for the construction of an isthmian canal since June 28, 1902, and all the correspondence and notes between the United States and any of its officials or representatives or the Government of Panama, concerning the separation of Panama from Colombia, have been sent to the Senate; and if not, that he be requested to send the remaining correspondence and notes to the Senate in executive session.

So there is no suggestion of a command, but a request. If our position is correct, we request the President to grant to the Senate not a concession, but that to which the Senate is entitled. There can be no suggestion of discourtesy in the Senate's passing its judgment upon whether it wants that to which it is entitled or not; whether it ought to be sent or not, and not leaving it to the President to decide, because he is not asked to make public information that is in possession of the executive department of the Government, not asked to make any document or anything that has transpired between the executive department and any of its officers either in Colombia or Panama public, but to send it to the Senate in confidence, because when it is sent to the Senate in executive session it means to send it in confidence.

I resent the imputation of the Senator from Wisconsin [Mr. SPOONER] that the chairman of the Committee on Foreign Relations should have possession of any information from the executive department to which every Senator in this body is not equally entitled. It is the Senate and every member of it that is entitled to the information that is contained in the archives of the executive department. Every Senator is as much entitled to the information—in confidence, to be sure—as is the chairman of the Committee on Foreign Relations or any other Senator. The chairman of the Committee on Foreign Relations, when it comes to advising and consenting to the ratification of a treaty or the making of a treaty, has no more power and no more authority in this body than any other Senator.

The suggestion was made yesterday—I have not read the RECORD this morning—by the Senator from Rhode Island [Mr. ALDRICH] that probably there are some things transpiring now that we should not have, as they would throw no light on the situation. If they would not, no harm would be done, because nobody would know of it except Senators. But it is a familiar principle of law that circumstances and transactions transpiring after may shed light upon the real matter in question, as much so as antecedent and contemporaneous transactions and circumstances.

The desire of the Senate is, or ought to be—it surely is the desire of the Senator who introduced this resolution and a number of others of us—that we should have all the documents and information in reference to this matter that were before the President and which may have operated upon his mind in the negotiation of this treaty.

The question is not, as was stated by the Senator from Wisconsin, whether the President would be justifiable in denying to the Senate, or at least in denying to make public, transactions of the secret service of the executive department of the Government, or whether the President would be justifiable in denying to the Senate, and denying to the public, his plan of military campaign in case of war. That is not the question. It may be granted that in case of anything of that kind the President would judge whether it would operate against the interests of the public service for him to make the matter public; but the question here is whether or not in this case the Senate of the United States is entitled, in passing upon the question as to whether it will advise and consent to the treaty which has been made, to the information which the President had and which operated upon his mind. If the Senate is entitled to this information—in confidence, as the resolution requests—although the Senate has no power to enforce its request, as has been suggested, it ought to make the request predicated on its own judgment. It is impossible, if the Senate keeps faith by holding the communication in confidence, for any harm to thereby come to the public interest. To put the amendment, therefore, is not only idle, but implies that the Senate may divulge that it receives in confidence. It can not be claimed with reason that it would operate against the public good to send any information to the Senate in confidence, and that is what this resolution requests.

I say the simple question is whether the Senate is entitled, in confidence, to all the information the President had, and which may have operated upon his mind, so that the Senate can determine whether it was wise for him to negotiate the treaty and whether, therefore, the Senate will consent to it.

There is no question of the exposure of the secrets of the secret service of the executive department. Nobody proposes to do that. The question is whether the Senate is entitled to this information in confidence. If this body is entitled to this information, and this body, which is to pass upon the treaty, says it wants it, it is no discourtesy to the President to request him to send in here that which we are entitled to have in passing judgment upon the treaty. That is the question, and the entire question. As I have said, it is dissociated from any proposition to expose to the public the secret service; it is dissociated from the proposition to expose to the public a plan of military campaign of the President of the United States.

The President has the power to make treaties by and with the advice and consent of the Senate. Whenever the Constitution confers upon the President of the United States any power, it carries with it a duty of that officer. When it devolves upon the Senate of the United States a duty it implies the means and power to intelligently discharge that duty. It is the duty of the President of the United States, as much as it is in his power, to make treaties by and with the advice and consent of the Senate of the United States. It was understood by the framers of the Constitution that it would be in the interest of the Government of the United States that treaties should be made with foreign

governments, and it conferred that power upon the President, and that power infers the duty of the President to make treaties.

While that is so, it limited the power, and therefore limited the duty, to the advice and consent of the Senate. When it did that, it made it his duty, this confidential relation existing between him and the Senate, in making a treaty, to confide all the information that he has which this body desires. But it is not to be supposed that this body would desire any information that was not pertinent to the matter in hand. It was, then, the duty of the President to furnish his advisers, who are to advise and consent to a treaty he has negotiated, all the information he had, in order that the Senate may judge of the wisdom or fallacy of the treaty presented, having, therefore, all the opportunity he had for judging of the treaty. Where the propriety of the treaty is to be the joint judgment of two persons of identical interests it seems to me to be the acme of sophistry to argue that one of them is entitled to information denied to the other. If the Senate is entitled to this information and desires it, as is admitted, it seems to me to be a lowering of its dignity to defer its judgment, as to whether it ought to have it, to anybody, even the President.

The Senate is compelled to pass its judgment upon this treaty, and can not delegate that authority to any other power or any other authority. The Senate may make a treaty, dependent upon a subsequent contingency; but the Senate itself must judge of the wisdom or the fallacy of that subsequent contingency. It can not make that contingency depend upon the judgment of any other body, whether the House of Representatives, the Supreme Court of the United States, the President of the United States, or anybody else. It must itself judge of the wisdom or the impropriety of the treaty. The wisdom or impropriety of a treaty upon the happening of a future contingency must be left to the judgment of the Senate. How can the Senate judge of the wisdom of it when the President has asked for its advice—not only the consent, but the advice, of the Senate—when the President refuses to confide in this body, whose advice and consent he asks, the information that is in his possession which this body desires for deliberation on the treaty?

I am not going to discuss the treaty. I am not going further than to say that the very first article of this treaty is a declaration of war against Colombia, if Colombia sees proper or feels able to assert its authority, even in the face of the United States. That being so, this Senate may want information which will enable it to judge whether anything has been done in the establishment of this embryo Republic that would justify us in taking that responsibility upon the Government of the United States or denying that responsibility of the Government of the United States.

We have a right to know everything that the President knows about this treaty. Our authority and our power are coordinate with his authority and his power, coupled with the condition that the Senate advises him to exercise that power and consents to his exercise of that power.

It is said here in advocacy of the position that has been taken by the Administration that Colombia has been a despotic Government over the people of Panama. Mr. President, it does not lie in our mouth to say anything of that kind. We are the last people who ought to assert anything of the despotism of the Colombian Government over Panama in judging of this treaty. That seems to be the argument—that is the argument, I believe—of the Assistant Secretary of State. We are shut off from that because last year we offered a treaty to the Colombian Government whereby we undertook to maintain their authority and their sovereignty over Panama. This Administration undertook to guarantee, less than a year ago, so far as its property was concerned and so far as this territory about which we were treating was concerned, the sovereignty of Colombia and make stronger its hold—its perpetual hold—upon that territory. That was the Hay-Herran treaty. So, as I have said, it does not lie in our mouth to say anything against Colombia for any oppression of Panama.

I am not arguing and I am not going to argue that Panama has not grounds for complaint. I do not know. It is not pertinent or germane to this discussion. If the people of Panama have cause for complaint, it does not lie in the mouth of this Administration to say anything to justify itself because of any tyranny on the part of the Colombian Government over Panama.

It seems that the Administration was willing less than a year ago to fasten the hold of Colombia upon those people if we could only get Colombia to treat with us for control over the Panama Canal and the Panama Canal property. But there is a little intimation contained in the President's message of January 4, on pages 23 and 24, that the time when this Administration wanted to call a halt was when the New Panama Canal Company, not composed of citizens of the United States, but a company in which the Government of the United States is not interested, was about to lose its alleged rights in Colombia by lapse of the statute of limitations, and not when the people of Panama were oppressed by the tyranny of Colombia.

If it is not true that this Administration intended to make this effort for the protection of the New Panama Canal Company, in which the citizens of this Government are not interested, what is the suggestion in the message for? Why is it there? What is its significance? Why should we risk a war for the protection of real or supposed rights of citizens of France or any other country?

One word in reference to international eminent domain, a term that has been suggested in the discussion of this resolution. If there is such a thing in international law, it ought to apply to all governments alike, great and small, because there ought not to be one law to be applied to the weak and another to the strong government; and if this Government has a right to assert the doctrine of international eminent domain, then it would be similar to the doctrine of national eminent domain; and if so, it would be the duty of this Government, in asserting that right, to pay to the real owner of the soil an amount that the property taken was reasonably worth.

That is about all I intended to say, Mr. President.

The PRESIDING OFFICER (Mr. HANSBROUGH in the chair). The question is on the amendment offered by the Senator from Illinois [Mr. CULLOM].

Mr. CULLOM. I hope we shall have a vote, Mr. President.

Mr. GORMAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PETTUS. Mr. President, I desire to know whether the vote is to be taken on the resolution or on the amendment?

The PRESIDING OFFICER. On the amendment proposed by the Senator from Illinois.

The Secretary proceeded to call the roll.

Mr. CULBERSON (when Mr. BAILEY'S name was called). My colleague [Mr. BAILEY] is unavoidably absent. If he were present, he would vote "nay."

Mr. ELKINS (when his name was called). I inquire if the junior Senator from Texas [Mr. BAILEY] has voted?

The PRESIDING OFFICER. The Chair is informed that the Senator from Texas is absent.

Mr. ELKINS. I am paired with that Senator, but I transfer that pair to the Senator from Connecticut [Mr. HAWLEY], and vote. I vote "yea."

Mr. HANSBROUGH (when his name was called). I have a general pair with the Senator from Virginia [Mr. DANIEL]. I presume he would vote "nay," if present. I should vote "yea." In his absence I withhold my vote.

Mr. MCLAURIN (when Mr. MONEY'S name was called). My colleague [Mr. MONEY] is detained from the Senate by reason of sickness. I believe he has a pair with the Senator from Wyoming [Mr. WARREN]. If my colleague were present, he would vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY], who is detained from the Chamber by illness. If he were present, he would vote "nay" and I would vote "yea."

The roll call was concluded.

Mr. BEVERIDGE. I have a general pair with the senior Senator from Montana [Mr. CLARK]. The junior Senator from Kentucky [Mr. MCCREARY] has a general pair with the junior Senator from Ohio [Mr. HANNA]. I therefore transfer my pair with the Senator from Montana to the Senator from Ohio, which will enable the Senator from Kentucky and myself to vote. I vote "yea."

Mr. MCCREARY. I vote "nay."

Mr. WARREN. It has been suggested that I transfer my pair with the Senator from Mississippi [Mr. MONEY] to the Senator from Washington [Mr. ANKENY], so that I may vote. I vote "yea."

Mr. CLAY (after having voted in the negative.) I desire to ask if the junior Senator from Massachusetts [Mr. LODGE] has voted?

The PRESIDING OFFICER. The Chair is informed that the Senator from Massachusetts has not voted.

Mr. CLAY. I have a general pair with that Senator, and therefore withdraw my vote. If he were present, he would vote "yea" and I should vote "nay."

Mr. LATIMER (after having voted in the negative). I have a general pair with the junior Senator from Illinois [Mr. HOPKINS]. I do not see him in the Chamber and do not know how he would vote, but I presume he would vote "yea." As I have voted, I desire to withdraw my vote.

Mr. PETTUS. I desire to inquire if the senior Senator from Alabama [Mr. MORGAN] is recorded as voting?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. PETTUS. I thought I heard his name read as having voted.

Mr. SPOONER (after having voted in the affirmative). I in-

advertently voted without looking to see if the Senator from Tennessee [Mr. CARMACK], with whom I have a general pair, was present.

Mr. GORMAN (after having voted in the negative). I suggest to the Senator that he and I transfer our pairs. I also voted inadvertently. I have a general pair with the President pro tempore, the junior Senator from Maine [Mr. FRYE]. I suggest to the Senator from Wisconsin that we transfer our pairs and let our votes stand.

Mr. SPOONER. Very well.

Mr. CLAY. I will transfer my pair to the senior Senator from Tennessee [Mr. BATE], so that the senior Senator from Tennessee will stand paired with the junior Senator from Massachusetts [Mr. LODGE]. I vote "nay."

The result was announced—yeas 39, nays 20, as follows:

YEAS—39.

Aldrich,	Cullom,	Gallinger,	Perkins,
Alger,	Depew,	Gamble,	Platt, Conn.
Allison,	Dillingham,	Heyburn,	Proctor,
Ball,	Dolliver,	Hoar,	Quarles,
Bard,	Dryden,	Kean,	Scott,
Beveridge,	Elkins,	Kittredge,	Smoot,
Burnham,	Fairbanks,	Long,	Spooner,
Burrows,	Foraker,	McComas,	Stewart,
Clapp,	Foster, Wash.	McEnery,	Warren
Clark, Wyo.	Fulton,	Nelson,	

NAYS—20.

Bacon,	Culberson,	Mallory,	Pettus,
Berry,	Gibson,	Martin,	Simmons,
Blackburn,	Gorman,	Newlands,	Stone,
Clay,	McCreary,	Overman,	Taliaferro,
Cockrell,	McLaurin,	Patterson,	Tillman.

NOT VOTING—31.

Allee,	Daniel,	Hawley,	Money,
Ankeny,	Dietrich,	Hopkins,	Morgan,
Bailey,	Dubois,	Kearns,	Penrose,
Bate,	Foster, La.	Latimer,	Platt, N. Y.
Burton,	Frye,	Lodge,	Quay,
Carmack,	Hale,	McCumber,	Teller,
Clark, Mont.	Hanna,	Millard,	Wetmore.
Clark, Ark.	Hansbrough,	Mitchell,	

So the amendment of Mr. CULLOM was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution as amended.

Mr. HOAR. I should like to suggest to the Senator on the other side having charge of this resolution that its phraseology is not exactly what we should have in an important state paper going from the Senate. There are two clauses in it. The first clause asks for the correspondence and notes "for the construction of an isthmian canal." I suppose the mover of the resolution would prefer to have it "relating to" instead of "for."

Mr. CULBERSON. There is no objection to that modification.

Mr. HOAR. The other clause is "all the correspondence and notes between the United States and any of its officials." The United States does not correspond with its officials in any proper sense of that phrase. It should be "the Department of State and any official or representative." The United States does not in its own name correspond with any of its servants. One servant corresponds with another. I would suggest instead of "between the United States," the words "between the Department of State and any of the officials or representatives of the United States."

Mr. CULBERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Texas?

Mr. HOAR. Certainly. I have finished what I had to say.

Mr. CULBERSON. While I think the criticism of the distinguished Senator—and I say it with due deference—is hypercritical, there is no objection to any alteration which may make the resolution clearer to others than it seems to be. If it is satisfactory, it may read:

And notes between the Government——

Mr. HOAR. Will the Senator allow me to suggest what has just been suggested to me? The resolution itself in the first clause uses the phrase which I think is the preferable one, that is, "between the Department of State." If that can be used in the second clause it would remove the criticism.

Mr. CULBERSON. The last paragraph of the resolution is intended to be broader than the first. We want any communication of an official character between any Department of the Government in the last instance and any of its officials or representatives or with the Government of Panama. We have no objection to adding before the words "United States" the words "the Government of." In order to meet the suggestion——

Mr. HOAR. Suppose the Senator should say "and all the correspondence and notes between any Department of the Government."

Mr. CULBERSON. I was about to suggest, after the word "between," in line 7, the insertion of the words "any Department of."

Mr. SPOONER. That is all right.

Mr. ALLISON. "The Government of the United States."

Mr. CULBERSON. Let the Secretary read the resolution, or that part of it as proposed to be amended.

The SECRETARY. In line 6, after the word "between," it is proposed to insert "any Department of the Government of."

Mr. HOAR. That makes it clear.

Mr. CULLOM. Let it be read as the resolution will now read.

The PRESIDING OFFICER. The Secretary will read the resolution as it is proposed to be amended.

The Secretary read as follows:

Resolved, That the President be requested to inform the Senate whether all the correspondence and notes between the Department of State and the legation of the United States at Bogota, and between either of these and the Government of Colombia for the construction of an isthmian canal——

Mr. HOAR. That was amended by consent, substituting the words "in relation to" instead of "for."

The Secretary resumed and concluded the reading of the resolution, as follows:

and the Government of Colombia in relation to the construction of an isthmian canal, since June 28, 1902, and all the correspondence and notes between any Department of the Government of the United States and any of its officials or representatives or the Government of Panama, concerning the separation of Panama from Colombia, have been sent to the Senate, and, if not, that he be requested to send the remaining correspondence and notes to the Senate in executive session, if not, in his judgment, incompatible with the public interest.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Texas.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution as amended.

Mr. BATE. Mr. President, I will thank you to state what the proposition is. I have just entered the Chamber.

The PRESIDING OFFICER. The question is on agreeing to the resolution offered by the Senator from Texas [Mr. CULBERSON].

Mr. STONE. As amended.

The PRESIDING OFFICER. Which has been amended.

The resolution as amended was agreed to.

WILLIAM D. CRUM.

Mr. TILLMAN. I ask unanimous consent for the immediate consideration of the resolution which I send to the desk.

The PRESIDING OFFICER. The resolution will be read.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to send to the Senate information in regard to the appointment of William D. Crum as collector of the port of Charleston, S. C., and that he answer specifically the following questions:

First. Is William D. Crum now holding a commission as collector? If so, give date, and send to the Senate a verbatim copy thereof.

Second. Was his second appointment made in accordance with law; and if so, what law?

Third. Is there any law or precedent for the holding of an office of this kind by a "de facto" official?

Fourth. Is it the contention or intention to claim and exercise the authority to make such appointments during a constructive recess, as this appears to be?

Mr. ALDRICH. Mr. President——

Mr. TILLMAN. Will the Senator from Rhode Island give me one minute in which to explain the resolution?

Mr. ALDRICH. Yes.

Mr. TILLMAN. Mr. President, yesterday we received from the Secretary of the Treasury an answer to a resolution passed on the 25th of January, endeavoring to get this same information. I will read that letter, as it is very remarkable:

OFFICE OF THE SECRETARY, TREASURY DEPARTMENT,
Washington, January 27, 1904.

MY DEAR SIR: Replying to Senate's resolution of January 25, 1904, I beg to advise, William D. Crum was appointed collector at the port of of Charleston, S. C., March 20, 1903, and a temporary commission issued. Mr. Crum qualified by executing bond for $50,000 and took oath of office March 30, 1903. Mr. Crum was again appointed December 7, 1903, and has given bond in the sum of $50,000 and took the oath of office on January 9, 1904. There has been no third appointment and no fourth appointment. The same information is contained in a letter to Hon. B. R. TILLMAN, under date of January 8, 1904, and which appears in the CONGRESSIONAL RECORD of January 25, 1904.

The resolution also asks: "Is Mr. Crum now in office; and if so, under what authority of law?" William D. Crum is de facto collector at the port of Charleston, S. C. Whether he holds his position under authority of law is determinable not by the executive department of the Government, but by the judiciary, and by that only. He is not receiving pay, because of the provisions of section 1761.

Very truly, yours,

L. M. SHAW.

Hon. WILLIAM P. FRYE,
President pro tempore United States Senate.

Mr. President, the trouble with this letter is that it is again ambiguous. I ask that the resolution which I have just offered may be read, so that Senators can see just what points are left out or are left in an ambiguous or uncertain and nebulous condition here.

The PRESIDING OFFICER. The Secretary will again read the resolution.

The Secretary again read the resolution.

Mr. TILLMAN. Does the Senator from Rhode Island wish any additional discussion?

Mr. ALDRICH. I will ask that the resolution may go over until to-morrow.

Mr. TILLMAN. Oh, Mr. President, it takes us so long to get this information when we start that I hope the Senator will not do that. I will not say another word. The resolution is very clear on its face. It simply endeavors to get the Secretary to tell us what a de facto official is.

Mr. KEAN. Consult the law books.

Mr. TILLMAN. We are not supposed to go to the law books, if the Senator from New Jersey will permit me. We are Senators here in the discharge of certain functions, and I am trying to get the Treasury Department to tell us just where this man is and how he got there.

Mr. ALDRICH. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Rhode Island?

Mr. TILLMAN. I can not help but yield, because the resolution is not yet before the Senate for consideration, and if he insists upon its going over it will have to go over. But I submit to him that the letter of the Secretary of the Treasury warrants the inquiries which I have presented. It does not appear that we are going to get this information in any other way, and I do not know whether we are going to get it now.

Mr. ALDRICH. I will not object to the first part of the resolution, which simply directs the Secretary to send here the papers in the case. Then we ourselves can judge whether the appointment is in accordance with the law. It is not fair to ask the Secretary of the Treasury a lot of legal questions.

Mr. HALE. Strike out the last two clauses.

Mr. TILLMAN. The Secretary says Crum is a de facto official. I want to know where the Secretary of the Treasury or any other official of this Government gets the authority to say to the Senate, which has a right to confirm or reject a nomination, "This man is in office, and nobody can determine his status but the judiciary."

Mr. ALDRICH. When the Senate is in possession of the information——

Mr. TILLMAN. I am trying to get it, and the Senator from Rhode Island will not allow me.

Mr. ALDRICH. The Senator from South Carolina goes further. He asks for opinions, and not facts.

Mr. TILLMAN. Opinions? I ask what a de facto official is? If the Secretary will not send his own opinion here, I would not ask him for the opinions of others.

Mr. ALDRICH. I think it is better, and that the Senator will reach his purpose more promptly and efficaciously by asking for facts rather than for opinions.

Mr. HALE. Strike out the last two clauses.

Mr. ALDRICH. Strike out the last two clauses of the resolution.

Mr. TILLMAN. Please read the resolution again and let me see what it is proposed to leave out, and let me see if they propose to cut it off right behind the ears.

The PRESIDENT pro tempore. The Secretary will again read the resolution.

The Secretary read as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to send to the Senate information in regard to the appointment of William D. Crum as collector of the port of Charleston, S. C., and that he answer specifically the following questions:

First. Is William D. Crum now holding a commission as collector? If so, give date and send to the Senate a verbatim copy thereof.

Mr. ALDRICH. That is all right.

The Secretary resumed and concluded the reading of the resolution, as follows:

Second. Was his second appointment made in accordance with law; and if so, what law?

Third. Is there any law or precedent for the holding of an office of this kind by a "de facto" official?

Fourth. Is it the contention or intention to claim and exercise the authority to make such appointments during a constructive recess, as this appears to be?

Mr. TILLMAN. If the Senator from Rhode Island will indulge me for one moment, I will call his attention to the fact that on two previous occasions, once by me through a personal letter, and the other by the Senate in the form of a resolution, we have tried to get this very information, and that the Secretary has, apparently, with great adroitness, dodged it.

Mr. SPOONER. What has he done?

Mr. TILLMAN. He has dodged the inquiry as to whether or not this man is lawfully in office.

Mr. SPOONER. Oh, well——

Mr. TILLMAN. And he says he is a de facto official.

Mr. SPOONER. He has stated the facts. He was asked whether this man was in office, and he informs the Senate that he was commissioned in March. That was in the recess.

Mr. TILLMAN. Yes; which was lawful.

Mr. SPOONER. Which was lawful. He informs the Senate also that he was appointed on December 7.

Mr. TILLMAN. "Appointed," mind you. The usual form is nominated again.

Mr. SPOONER. No; appointed on December 7.

Mr. TILLMAN. That is what he states.

Mr. SPOONER. That is what he says.

Mr. TILLMAN. Yes.

Mr. SPOONER. Commissioned December 7.

Mr. TILLMAN. No; he does not say he has a commission now.

Mr. SPOONER. Oh, well; he was appointed December 7. He is still in office, he says, and has given bond. Now he says he is a de facto officer. That is a question of law; and does not the Senator think that as he is asking the Senate to take the deposition of the Secretary of the Treasury and as he has framed several direct interrogatories, as the lawyers call it, he had better let the resolution go over until to-morrow to see if there be not some cross-interrogatories to be proposed?

Mr. TILLMAN. This is a very important matter. It is very much more important, to my mind, than the matter which we have just disposed of.

Mr. SPOONER. I, too, think it is important.

Mr. TILLMAN. It is too important to be laughed at and slurred over.

Mr. SPOONER, I am not laughing at it. I think the Senator knows on the facts whether or not Crum was lawfully appointed.

Mr. TILLMAN. I have my opinion.

Mr. CULLOM. The difficulty is that it goes further than is necessary, in speaking about a de facto officer.

Mr. SPOONER. Yes.

Mr. TILLMAN. The other inquiry asks under what authority of law the appointment was made, and instead of telling us where he got any authority or where there is a precedent or any statute allowing the President or the Secretary to appoint an official and issue a commission which is subject to the approval of the Senate, he goes forward and says, "Now he is de facto." That is a brand-new phrase in this connection.

Mr. SPOONER. Oh, no.

Mr. TILLMAN. I understand that. There are de facto governments, like the one at Panama, and there are de jure governments, and all that kind of thing, but I am endeavoring to locate the contention of the executive department in this connection. If they contend that there is a constructive recess, which occurred between 12 o'clock and 12 o'clock on the 7th of December, let them say so. I do not want them to go and do the thing and then try to hide out in the bushes.

Mr. SPOONER. The truth is——

Mr. TILLMAN. Another question I will ask my friend is this: He says this is a question for the decision of the judicial department. I want to know who can bring a case in court to test it if we surrender our right and our duty to pass upon the question of appointments?

I want to ask my friend also: Suppose this was in Milwaukee or New York, instead of Charleston?

Mr. SPOONER. It would not change the case at all.

Mr. TILLMAN. It would not change the case at all, except it would not be attempted, and you know it. No President would dare attempt it.

Mr. SPOONER. I am not feeling very well this morning, and I think the Senator ought not to be so threatening.

Mr. TILLMAN. I feel very deeply and strongly, but I do not intend to threaten my friend. I speak emphatically, and if he is so thin-skinned that he objects to Senators displaying earnestness such as he sometimes manifests, I will apologize.

Mr. SPOONER. The truth is, this resolution ought to go over until to-morrow.

The PRESIDENT pro tempore. The resolution will go over under the rule.

RELATIONS WITH COLOMBIA.

Mr. BACON. I desire to ask permission of the Senate, under the order which has previously been made, to call up Senate resolution 82, in order that I may submit some remarks in reference thereto.

The PRESIDENT pro tempore. The Chair lays before the Senate the resolution indicated by the Senator from Georgia.

The SECRETARY. Senate resolution No. 82, by Mr. BACON, favoring the negotiation by the President of a treaty with Colombia for the adjustment of all differences between the United States and that country growing out of the recent revolution in Panama.

Mr. BACON. I ask that the resolution may be read.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution submitted by Mr. BACON on the 12th instant, as follows:

Resolved, That the President be respectfully informed that the Senate favor and advise the negotiation, with a view to its ratification, of a treaty with the Republic of Colombia, to the end that there may be peacefully and satisfactorily determined and adjusted all differences between the United States and the Republic of Colombia growing out of the recent revolution in Panama and the consequent secession of Panama from Colombia, and the alleged aid and assistance by the land and naval power of the United States in the successful accomplishment of said revolution and secession, through the alleged forcible prevention by said land or naval forces of the assertion and maintenance by Colombia of her sovereignty and authority in Panama; and that full and complete compensation may be made by the United States to the Republic of Colombia for the loss of her sovereignty and property rights in Panama, so far as the same may be shown to be due to any act of the United States through the land or naval forces of the same.

Resolved further, That the President be respectfully informed that if it should prove to be impracticable for the United States and the Republic of Colombia to agree through a convention upon the question of the said alleged responsibility on the part of the United States, or upon the question of the amount of compensation to be made when such responsibility shall be established, the Senate in that case favor and advise the negotiation, with a view to its ratification, of a treaty with the Republic of Colombia submitting to the Permanent Court of Arbitration at The Hague or to some other tribunal to be agreed upon, for impartial arbitrament and peaceful determination, all questions between the United States and the Republic of Colombia growing out of the matters herein recited.

Mr. BACON. Mr. President, most of the resolutions which have been offered on the Panama question, if not all of them, except those which relate to this particular phase of the question, naturally provoke a discussion of the questions relating to the advisability and propriety of the ratification of the Panama treaty. This particular resolution, however, has no such relation to the discussion which is now in progress. It does not in any manner involve the question as to whether the treaty should or should not be ratified. One might be in favor of the ratification of the treaty and at the same time be opposed to the adoption of the pending resolution. On the other hand, he might favor the adoption of the resolution and be opposed to the ratification of the treaty; or he might be opposed both to the treaty and the resolution, or he might favor both the resolution and the treaty. So the consideration of this question need not in any manner enlist either opposition or approval, according as a Senator may or may not be in favor of the ratification of the treaty.

The sole purpose of the resolution is to endeavor to place the Senate and the Government of the United States, through its treaty-making power, in a position which may avert hostilities, violence of any kind which otherwise may ensue, and at the same time put the Government in a position where it may have advantages in the future in its peaceful relations with Colombia which might otherwise be denied to it.

When the resolution was introduced it was most vigorously and vehemently assailed by Senators on the opposite side of the Chamber. It was assailed in terms little short of indignation as being utterly beyond the possibility of approval by the Senate, and of a character so objectionable that it could not even have the consideration which would result from a reference to a committee.

The junior Senator from Massachusetts [Mr. LODGE], immediately upon the introduction of the resolution, denounced it in most unsparing terms, and endeavored to deny to it the opportunity even of a reference to a committee by a motion to make immediate disposition of it by laying it on the table, and the general consensus, so far as might be judged by utterances upon that occasion by the Senators on the other side of the Chamber, was in accord with that position taken by the Senator from Massachusetts.

It was not until later in the day, during the debate, that the resolution had the recognition of any kindly word from any Republican Senator, although it is a resolution addressed to the conscience of the Senate and of the Government, and an appeal not for strife, but an appeal for peace and concord. Later in the day, I repeat, there was one kindly word of recognition which came from the senior Senator from Maine [Mr. HALE], and the original suggestion of the Senator from Maine was one which I was prepared and disposed to be in accord with, although it did not go, as I stated then, as far as I desired it to do. The original suggestion of the Senator from Maine looked to a negotiation with Colombia direct by the United States Government with a view to an agreement for a settlement of differences between the United States and Colombia, and I was disposed to accept the same, and I even then invited him to frame a resolution upon that line.

Unfortunately, however, upon reflection the Senator from Maine did not go so far in the resolution which he proposed as a substitute as was originally suggested by him, and therefore, when it was introduced, I said to him, in recognition of what had passed the day before, that I must not be considered as accepting the resolution as a substitute, which he recognized as entirely proper.

Mr. HALE. Mr. President, if the Senator will allow me, I did not consider what the Senator said when upon his feet at that time as binding him in any way to accept my amendment. In fact, I afterwards introduced my proposition separately and distinctly from the Senator's and had it referred to the committee. I do not consider the Senator as in the slightest degree bound to accept what I offered.

Mr. BACON. I do not know that the Senator heard what I said previously, which was to the effect that if the resolution had been in accord with the first statement of the Senator in the colloquy which we had I would have been disposed to have accepted it, but the resolution as introduced by the Senator, first as a substitute and afterwards, I understand, as an independent measure, did not go as far as he first suggested at the time when I signified my disposition to assent to the proposition suggested by him.

Now, Mr. President, the attitude of the Senators on the other side of the Chamber with reference to the resolution is, or was at that time, that it was utterly inappropriate and inadmissible, and that it was not even to be considered by the Senate with a view to concurrence therein. The attitude of Senators on the other side of the Chamber was that the proposition to enter into any negotiations with Colombia with a view to a peaceful settlement of our differences with her was monstrous, obnoxious, and not entitled to the decent and respectful consideration of the Senate. The object which I have to-day in addressing the Senate is to call attention to the fact that that resolution is in direct accord with and in direct pursuance of the declared policy of the United States Government, as manifested in actions innumerable in which the Government has committed itself in the most emphatic and solemn manner to the proposition that it is opposed to war; that it is opposed to violence as a remedy for disagreements with other nations; that it will treat with other nations with a view to agreement as to differences, and that if in the pursuance of such negotiations and treaties it is impossible to come to an agreement, rather than resort to violence or to attempt to have settlement by the assertion of might, it will in all cases, speaking generally, of course, endeavor, by reference to a third party, to arbitration of some kind, to avoid a resort to force and violence.

Then I propose, in the second place, to show that this is one of the direct classes of cases which properly fall within those thus recognized as properly to be settled either by treaty negotiation or by arbitration, and that unless there can be shown to be some defect in that statement this Government is bound by its pledges, bound by its repeated utterances of all kinds, by treaties, acts of Congress, resolutions, utterances of our Presidents and our Secretaries of State, bound by the most solemn of obligations, of plighted faith, to recognize it in this instance. Mr. President, I wish to cite the Senate to the record that the United States Government has made on this subject, not beginning at the beginning, but at a point where the action and declared attitude of the United States Government, or rather of the legislative department of the Government, became more pronounced possibly than at any previous time. I call attention to Senate Document No. 141, Fiftieth Congress, first session. In that Congress there appeared before the Foreign Relations Committee a committee appointed and sent by a large public meeting in the city of New York. This committee was composed of eminent men—Mr. David Dudley Field, Mr. Andrew Carnegie, Mr. Morris K. Jesup, Mr. Charles A. Peabody, Mr. Dorman B. Eaton, and Mr. Abram S. Hewitt, of which committee Mr. Field, Mr. Carnegie, and Mr. Peabody appeared in person before the Senate Committee on Foreign Relations.

The memorial presented there by these citizens of New York was one in which there was a specific application for the negotiation and making of a treaty between the United States Government and the Government of Great Britain, the particular occasion for that application and memorial being the result of a large public meeting held in New York to receive an address which had been made by some two hundred and thirty-odd members of the British House of Commons asking that such a negotiation should be had for the purpose of making such a treaty.

That committee appeared, as I said, before the Committee on Foreign Relations and personal addresses were made to the committtee by each of the three gentlemen whom I have mentioned as present, and they presented a written memorial, which is included in this Senate document. They set out the fact, a most remarkable fact, that there had been within recent years, speaking relatively, of course—that is, within the years of the nineteenth century following the general pacification in 1815—about sixty treaties submitting differences to arbitration, and that of those treaties some thirty-odd had been made by the Government of the United States with different governments. That was stated by them to be an incomplete statement of the number of treaties made by the United States Government, and it is true that some were omitted. Counting those that were thus omitted and adding to them such as have been made since that date, it is a fact very much to the credit of the Government of the United States and very much in point in the present consideration that the United States Government has entered since its organization

into about fifty different treaties for arbitration of differences with other governments.

Of course it is not necessary to enumerate them. Senators are familiar with them, and there are some thirty-odd of them set out in this document. I wish to read only one of them. At the conclusion of the Mexican war, when we made the treaty of peace with Mexico—I only use this as an illustration, one of many—the following article was included:

ARTICLE XXI.

If unhappily any disagreement should hereafter arise between the Governments of the two Republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual representations and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one Republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborship, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

I only read that as a sample, as one of many, as I said, nearly fifty of them, forty-nine possibly may be the accurate number of treaties which have been made by the United States Government, each of them recognizing the principle of agreeing with a country, if possible, when there is a difference existing between the two, and, in case of an impossibility of agreement, for a reference of that matter to the arbitration and settlement of some friendly and neutral power or tribunal.

The PRESIDENT pro tempore. The Senator from Georgia will please suspend one moment while the Chair lays before the Senate the Calendar of General Orders.

The SECRETARY. Order of Business, Senate bill 887.

Mr. CULLOM. I ask unanimous consent that that be laid aside for the balance of the day.

The PRESIDENT pro tempore. The Senator from Illinois asks unanimous consent that the Senator from Georgia be allowed to proceed. The Chair hears no objection, and the Senator will proceed.

Mr. BACON. The memorial thus presented, to which I have alluded and which represented a large meeting in the State of New York, concludes in this language:

We beg, therefore, most respectfully to ask from Congress the passage of a joint resolution requesting the President to propose to the Government of Great Britain the making of a treaty between the two nations, for a limited period at least, providing in substance that in case a difference should arise between them respecting the interpretation of any treaty which they have made or may hereafter make with each other, or any claim of either under the established law of nations, or respecting the boundary of any of their respective possessions, or respecting any wrong alleged to have been committed by either nation upon the other or its members, or any duty omitted, it shall be the earnest endeavor of both the contracting parties to accommodate the difference by conciliatory negotiation; and that in no event shall either nation begin a war against the other without first offering to submit the difference between them to arbitrators, chosen as may be then agreed, or if there be no different agreement, then by three arbitrators, one to be chosen by each party and an umpire by those so chosen; it being understood, however, that arbitration as thus provided for shall not extend to any question respecting the independence or sovereignty of either nation, its equality with other nations, its form of government, its internal affairs, or its continental policy.

Mr. SPOONER. Will the Senator be kind enough to read again the number of that document?

Mr. BACON. Yes, sir. Its number is 141, miscellaneous document of the Senate, Fiftieth Congress, first session.

The presentation of that memorial under the very impressing circumstances which gave rise to it had such influence upon the Senate, and at about the same time there were so many other memorials upon the subject of the peaceful settlement of international disputes, and so many bills and resolutions introduced into the Senate, that the following order was passed by the Senate:

Resolved, That the several memorials, statements, interviews, bills, and resolutions on international arbitration, presented to the Senate or to the Committee on Foreign Relations during the present session, be printed for the use of the Senate.

And in response to that order this document which I hold in my hand was compiled and printed.

The presentation by that committee was a very small part of the general public movement which was made at that time to commit this Government by direct action to the principles sought to be established, to wit, conciliatory and peaceful agreement, if possible; arbitration, if such agreement should be found to be impracticable. I want to call the attention of the Senate to some of the numerous memorials addressed at that time to the Senate of the United States, and to various proceedings of the Senate in pursuance of that general wish, which are to be found in this document. They are from people all over the United States, regardless of section. The first one to which I call the attention of the Senate is a petition from citizens of California. The presentation to the Senate of the memorial was January 10, 1888, at least that is the date of the memorial, and it was within a few days after that that the committee appeared before the Senate Foreign Relations Committee.

Mr. FAIRBANKS. May I ask the Senator what memorial he refers to? I did not hear his earlier statement.

Mr. BACON. I refer to the memorial which was presented to the Senate through the Foreign Relations Committee by a committee of eminent citizens of New York, appointed by a large mass meeting in the city of New York, the immediate convocation of which was due to an address which had been presented by two hundred and thirty-odd members of the British House of Commons urging upon the citizens of the United States that steps should be taken by which a treaty should be had between Great Britain and the United States which should provide for conciliatory negotiations in case of any differences, and in the absence of any practical agreement to provide in such a case for a court of arbitration. I will not go further in the repetition of what I had stated before the Senator was in his seat in the Senate. I presume that will be sufficient to connect what I am now saying with what I had previously said.

I called the attention of the Senate to the fact that that proceeding had enlisted the attention of the Senate to such an extent that it ordered that there should be compiled and printed for the use of the Senate the memorials and addresses from different parts of the country which were during that session of Congress presented in advocacy of this general idea and desire for conciliatory agreement and for practical arbitration in the absence of a satisfactory result in an attempt for conciliatory negotiation. I was about to read, at the time the honorable Senator from Indiana interrupted me, the short petition, as it is here designated, from the citizens of California, signed by a great many of them:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned, citizens of the United States and of the State of California, profoundly impressed with the evils of war, and rejoicing that our own country is at peace, and not, like so many other nations, staggering under immense armaments as costly as war itself, would earnestly pray your honorable body either to enact as a law one of the ten bills intended to promote international arbitration, already introduced and referred to appropriate committees of Congress, or to provide in some way for a convention of American and other nations, the object of which shall be to discuss and agree upon a permanent high court of arbitration in which the civilized world may be represented, and to which may be referred those disputes that have usually led to war.

Till such a permanent court is established, we would urge the insertion of a clause in every treaty providing that differences arising under it should be referred to disinterested arbitrators.

I do not read all of these memorials and petitions; but I skip to different sections of the Union in order that it may be seen there was this general and widespread desire on the part of our people that the Government of the United States should, in its most authoritative and solemn utterances, provide measures which would make the possibility of war least and provide the machinery by which the possibility of war might be avoided.

I read one now from New Hampshire, and I do not think that I will unduly occupy the time of the Senate if I put upon record in consecutive form that which shall indicate the high and honorable and solemn purpose of the people of the United States under all circumstances and on all occasions to put itself in the attitude of a peacemaker and a peace observer, a deprecator of war, and one ready to submit differences to a tribunal of arbitration rather than stand out with the attitude of one who asserts he is right and can not be wrong and will not admit the adjudication of that question by anyone.

I will not read all of the memorial from the citizens of New Hampshire, because I want to read several from other States, and I would unduly burden the RECORD if I read each in full; but in speaking about the desirability that there should be this arrangement made between the United States Government and the Government of Great Britain the citizens of New Hampshire, large numbers of whom signed the paper, go on to express the view which indicates that their desire was not one simply for peace between this Government and the Government of Great Britain, but that it was a desire that the United States Government should occupy the position of desiring peace with all peoples. It concludes in this language, speaking of the desirability of the proposed treaty between Great Britain and the United States:

That it would induce other governments to join in efforts to supplant by the methods of reason the unjust, rude, and cruel ways of war, of which the masses of mankind are weary, and that the definite inauguration of a policy thus aiming at perpetual peace and universal law would constitute one of the greatest services and greatest glories of the American Republic.

Next I read one from the State of Ohio. This, also referring to the immediate proposition for a treaty between Great Britain and the United States, concludes:

Respectfully pray that you will take such proceedings as may be necessary to propose such a treaty, believing as we do that the United States of America are peculiarly fitted to take such a step in the interest of humanity and universal peace and good will among men.

Not simply peace between the United States and Great Britain, but in the interest of humanity and universal peace and good will among men.

Now, the memorial from the State of Maine uses similar language, signed by a large number, filling half a page on this printed document, of the citizens of Maine, referring particularly to the proposed British treaty, and then recognizing that that is not the sole idea, but that the idea is that the United States Government shall take a position which shall plant it upon the side of those who favor peace, not only with Great Britain, not only with the strong, but with the weak and with all peoples.

That it would induce other governments to join in efforts to supplant by the methods of reason the unjust, rude, and cruel ways of war, of which the masses of mankind are weary, and that the definite inauguration of a policy thus aiming at perpetual peace and universal law would constitute one of the greatest services and greatest glories of the American Republic.

Before I finish I desire to show not only that the people of Maine were imbued by such a desire, but that some of the most eminent men from Maine, who have illustrated their State and the citizenry of this country, have in the most pronounced manner committed this Government, so far as they were able to do it by their voice and by their influence, to this most benign and beneficent policy.

Mr. President, I have here a large petition, printed in this document, from the State of Massachusetts. I shall not stop to read it. I am sorry that the junior Senator from Massachusetts [Mr. LODGE], who was so exceedingly indignant at the bare idea that the Government of the United States, the great, strong Government of the United States, should for a moment contemplate a submission to arbitration or contemplate the attempt at conciliatory negotiation with the weak, feeble power of Colombia, is not now present, in order that he might hear me read the resolutions of the legislature of Massachusetts upon that subject, also found in this same document.

Mr. MCCREARY. Will the Senator be kind enough to tell the date of those resolutions?

Mr. BACON. I have already stated it; it is in 1888, during the first session of the Fiftieth Congress, when the Senate of the United States by order had this document compiled, showing the memorials which had been presented to that session of Congress. I have read a number of them, but I presume the Senator was not in his seat at the time.

This is a resolution by the legislature of Massachusetts, signed by all of its officers, both of the senate and the house:

Resolved, That the senate and house of representatives in general court assembled approve of the efforts being made relating to the ultimate ratification of treaties which shall provide for the settlement by arbitration of any difference or disputes arising between the Governments of Great Britain or other civilized nations and the United States which can not be adjusted by diplomatic agency, and thereby providing for the settlement of all international difficulties which may arise without resorting to cruel methods of war and bloodshed.

Mr. President, in the same document there is printed a resolution which was reported from the Committee on Foreign Relations as the result of all those memorials and of this particular hearing before the Committee on Foreign Relations of the Senate of this New York committee. It is a resolution which Mr. Sherman, the chairman of the committee, reported as the action of the Foreign Relations Committee in consequence of the appeals which had been made to it and to the Senate:

IN THE SENATE OF THE UNITED STATES,
June 13, 1888.

Mr. Sherman, from the Committee on Foreign Relations, reported the following concurrent resolution to invite international arbitration as to differences between nations—

Not simply betweeen this nation and Great Britain—

Resolved by the Senate (the House of Representatives concurring), That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration, and be peaceably adjusted by such means.

Before I get through I intend to briefly discuss whether or not this particular proposed negotiation will fall within the terms of that resolution thus reported from the Committee on Foreign Relations, but I pretermit that for the present.

It also sets out two bills which were introduced in that session, each of them by a Senator from the State of Iowa. Under date of December 12, 1887, all in the same session of Congress, Mr. Wilson, of Iowa, introduced this bill:

IN THE SENATE OF THE UNITED STATES,
December 12, 1887.

Be it enacted, etc., That the President be, and hereby is, authorized and requested to institute negotiations with other governments for the creation of a tribunal for international arbitration, or other appropriate means whereby all difficulties and disputes between nations may be peaceably settled and wars prevented.

SEC. 2. That the President be, and hereby is, authorized to invite the several governments of North, Central, and South America, and such other governments as he in his discretion may determine, to send delegates to an international convention to be held in Washington, at such time as he may designate, for the purpose of considering and agreeing upon measures for the promotion of peace and amity among nations.

A proposition which afterwards materialized, to which I shall call more specifically the attention of the Senate.

The other Senator from Iowa, the present senior Senator [Mr. ALLISON], introduced a bill, which I shall now read. I should like very much if Senators would note, in view of our recent discussions here, the language which the Senator from Iowa used in the bill which he introduced. He goes further than his colleague, who simply requested the President. His bill reads:

Be it enacted, etc., That the President of the United States be, and he hereby is, authorized and directed to institute negotiations with the Governments of Great Britain and France for the purpose of creating a permanent tribunal for international arbitration, whereby all difficulties, differences, and disputes between the United States and these nations may be promptly, peaceably, and amicably settled.

But, Mr. President, while all of these to which I have called attention were in that particular session of Congress—and I have not called attention to all of them, by any means, but only selected some of the most prominent—that was not the origin of the pacific policy of the Government of the United States and of the people of the United States.

It is a remarkable fact that before the present Government of the United States was ever formed, in a treaty made by the old Confederation with one of the Barbary States—I have forgotten which one it was, but it was made in 1787—even with that distant and semicivilized people, there was inserted a clause which provided for peaceful negotiations between us and them in regard to any disputes that might thereafter arise in order that thereby war might be averted. But it is true that the most pronounced and decided attitude of the United States Government upon that subject was not assumed until after the period known as the period of the great pacification in 1815, at the end of the Napoleonic wars and of the war between this country and Great Britain.

But beginning, if I recollect correctly, with the year 1816 up to the year 1902 there has been an almost unbroken series not simply of utterances in Congress, not simply of resolutions introduced or of acts passed looking to such settlement, but of actual treaty negotiations entered into between the Government of the United States and almost all other governments, either making some general provision for arbitration whenever the necessity for it might arise or providing for some particular arbitration to settle some particular dispute. I desire, Mr. President, to express what must be a cause of pride to every American when I state that within that term more than half of all the arbitration treaties which have been entered into by all the nations of all the world have been entered into by the Government of the United States with other nations for the purpose of avoiding war and for the purpose of settling disputes by friendly negotiation, if possible, and then, if not possible, by submission to the determination of some impartial tribunal.

I am going, sir, simply to touch along at different points and not endeavor to present the whole record to the Senate, because I think I am within the bounds of moderation when I say that if the archives of this Government could be searched, if all the records that are beneath the Dome of this Capitol could be produced, there would be found absolutely tons and wagon loads of memorials which have come to Congress from the people of the United States, all praying for the accomplishment of this great, benign, and beneficent purpose and end.

If there is one thing that is more absolutely settled as the purpose and desire of the people of the United States than another, it is that; and, sir, it is not limited to that honorable sect which is opposed to war under any and all circumstances, but it pervades all classes of our people who thus generally deprecate war, bloodshed, and violence, and who desire that there should be an appeal to reason and a settlement, if you please, by concession rather than a determination by brute force.

As I have said, I am simply going to skip along and note at different times what have been the utterances of this Government, either by acts or resolutions or by the expressions of the committees of either House of Congress and otherwise. Away back in 1851 the resolution which I shall now read was reported from the Committee on Foreign Relations of the Senate, and will be found in Senate Report No. 270, Thirty-first Congress, second session. I will read the resolution. There is nothing new in it, but I will read it just to show what has been the uniform manifestation and utterance by the Senate of the United States.

Whereas appeals to the sword for the determination of national controversies are always productive of immense evils; and whereas the spirit and enterprises of the age, but more especially the genius of our own Government, the habits of our people, and the highest permanent prosperity of our Republic, as well as the claims of humanity, the dictates of enlightened reason, and the precepts of our holy religion, all require the adoption of every feasible measure consistent with the national honor and the security of our rights, to prevent as far as possible the recurrence of war hereafter: Therefore,

Resolved, That in the judgment of this body it would be proper and desir-

able for the Government of these United States, wherever practicable, to secure in its treaties with other nations a provision for referring to the decision of umpires all future misunderstandings that can not be satisfactorily adjusted by amicable negotiation in the first instance before a resort to hostilities shall be had.

In 1853, in the very next Congress, the Senate Committee on Foreign Relations makes a most elaborate report of many pages in advocacy of the same idea. This was in response to peace memorials which had been referred by the Senate to that committee. Without stopping to read the report, which is quite lengthy, after reciting the evils of war and alluding to the various difficulties which are encountered in the effort to provide for peaceful arbitration, the committee say:

All that the committee are willing to advise and recommend for the present is that in the treaties which are hereafter made with foreign nations it shall be stipulated between the contracting parties that all differences which may arise shall be referred to arbitrators for adjustment.

And in the same report—I will read now what I may have occasion to use subsequently in some things which I may have to submit to the Senate, replying to the contention we now have that the United States can not submit to arbitration any question involving a question of our honor—the committee say:

It sometimes happens that "the point of honor" between nations seems to demand immediate action and a blow is given without time for deliberation. The nation struck resents, and war is the consequence. Treaty stipulations requiring arbitration would be a salutary remedy in such cases. The "point of honor" would then consist in adhering to the treaty.

In 1872 Mr. Sumner, then a Senator from the State of Massachusetts, introduced a series of resolutions with preambles setting out the evils of war, etc. I will read two of the resolutions. I read from the Journal of the Senate, May 31, 1872:

Resolved, That any withdrawal from a treaty recognizing arbitration or any refusal to abide the judgment of the accepted tribunal or any interposition of technicalities to limit the proceedings is to this extent a disparagement of the tribunal as a substitute for war and therefore hostile to civilization.

Resolved, That the United States, having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a just and practical method for the determination of international differences, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

In 1874 the Committee on Foreign Relations of the Senate again, through Mr. Hamlin, a member of the committee—Simon Cameron, of Pennsylvania, then being its chairman—responsive to the petitions and memorials which had come to it, as stated in the report, from all over the United States, submitted the following resolution:

Resolved, That the United States, having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a just and practical method for the determination of international differences, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

During these periods, Mr. President, unnumbered resolutions of a similar kind were pending in the House of Representatives, responsive to similar appeals made by people from all over the United States. I have not followed all of these resolutions to see what was the ultimate action taken in each case, but I have followed one, which is a resolution reported from the Committee on Foreign Relations of the Senate, in this language:

IN THE SENATE OF THE UNITED STATES,
February 14, 1890.

Resolved by the Senate (the House of Representatives concurring), That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration, and be peaceably adjusted by such means.

The Senate resolution went to the House of Representatives and was passed by the House on the 3d day of April, 1890. So that outside of the unnumbered utterances, only comparatively a few of which I have even alluded to, through committees of this body and of the other House, here there was at last, if not before that time, finally enacted by the concurrent action of the two Houses the solemn enunciation by the Congress of the United States of the declared policy of the United States that in all cases—and the word "all" is comprehensive and admits of no limitation of meaning—that in all cases it should be the effort and the desire of the people of the United States to agree by friendly negotiation for the settlement of all differences, and in the absence of the practicability of such an agreement to submit those differences to the determination of an impartial tribunal.

Mr. FAIRBANKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Indiana?

Mr. BACON. With pleasure.

Mr. FAIRBANKS. If the Senator will allow me, if I understand his resolution, it really is predicated upon the assumption that the United States did actually lend aid and assistance through its land and naval powers to accomplish revolution. Is not that so?

Mr. BACON. I desire to say, with all respect to the Senator, that I shall at a future point in my remarks give particular attention to that inquiry. I simply ask now that he may pretermit it until I come to that part. I will not overlook it.

Mr. FAIRBANKS. That is satisfactory.

Mr. BACON. I will only say now, without stopping to discuss that—and asking that the Senator will not require me to do so now—that I do not agree with him as to the proper construction of the resolution, and I will endeavor to show why at the proper time.

Mr. FAIRBANKS. That will be perfectly satisfactory to me. I only wish the Senator to explain fully the scope and meaning of the resolution before he concludes.

Mr. BACON. I shall endeavor to do so.

Mr. President, not only by such action by Congress, but by the utterances of every President of the United States elected since the close of the civil war, there has been the most emphatic and cordial approval and recommendation and advocacy of the pursuance of that pacificatory policy by the United States, without limitation as to the character of the government with which we are to deal in a case of difference other than that they shall be civilized nations.

The first one to which I call attention is an utterance of President Grant, which I find in this same document from which I have been reading. In the memorial which was presented by the New York committee to the Senate through the Committee on Foreign Relations there is this statement:

President Grant, by example and by precept, recommended such a course to his countrymen. In an address to a Philadelphia society, after his return from a voyage around the world, he said:

"Though I have been trained as a soldier and have participated in many battles, there never was a time when, in my opinion, some way could not have been found of preventing the drawing of the sword. I look forward to an epoch when a court recognized by all nations will settle international differences, instead of keeping large standing armies, as they do in Europe."

That was the statement of the great soldier. This memorial, embraced in this document, goes on to say:

Presidents Hayes and Garfield did not hesitate to declare their concurrence in the same views.

We all know the distinguished part played by that most distinguished man from the State of Maine, Mr. Blaine, in the effort to accomplish this result, not only with the nations of the world at large, but particularly with the states of Central and South America. It would be very instructive if I could read all of the circular letter of Mr. Blaine of the date of November 29, 1881, in which he sets out the attitude of the Government of the United States upon this important question and in which he endeavors to inaugurate a congress of all the Central and South American states, together with those of North America, for the purpose of a solemn league and covenant that in any difference which might arise between either of them or between this great and powerful and overshadowing nation and the least of them there should be extended the hand of conciliation, that there should be put behind the thought of force and power and war and bloodshed as the result of such differences, and that there should be an effort by conciliatory means to agree where such differences should arise and in case such agreement could not be had that they would solemnly pledge themselves that such differences should be settled by the determination of a disinterested party and that there should be no appeal to the sword.

I will read some from that famous letter.

I beg to say possibly I am not altogether a good judge of what is most creditable and distinguishing in one who was preeminently a Republican, and, I will add, no less preeminently an American, but I will venture to say that while there may be some things and are many things in his history and career which will challenge more admiration for the brilliancy and ability and power he possessed and displayed, there is no utterance that ever fell from the lips of that distinguished man which will more distinguish him, and properly and rightfully distinguish him, than the sentiments uttered in this famous circular letter and the great movement he sought thereby to inaugurate. If it were not that I felt it would be a trespass, I would read all of it. But I will read only a part. It is a letter addressed to the representatives of the United States in the different countries which he sought to reach:

For some years past—

I am not reading from the beginning of it; I am reading from page 98 of the eighth volume of the Messages and Papers of the Presidents—

For some years past a growing disposition has been manifested by certain states of Central and South America to refer disputes affecting grave questions in international relationship and boundaries to arbitration rather than to the sword. It has been on several such occasions a source of profound satisfaction to the Government of the United States to see that this country is in a large measure looked to by all the American powers as their friend and mediator.

Words to be remembered, I respectfully suggest, when it is not simply a question of friendship and mediation as between two disagreeing Central or South American countries, but when the

thing comes closer home to us, and it is a question between this great country and one of those countries, however weak and feeble it may be.

Mr. Arthur was then President, and Mr. Blaine goes on, being then his Secretary of State, as follows:

The just and impartial counsel of the President in such cases has never been withheld, and his efforts have been rewarded by the prevention of sanguinary strife or angry contentions between peoples whom we regard as brethren.

The existence of this growing tendency convinces the President that the time is ripe for a proposal that shall enlist the good will and active cooperation of all the States of the Western Hemisphere, both North and South, in the interest of humanity and for the common weal of nations.

He conceives that none of the governments of America can be less alive than our own to the dangers and horrors of a state of war, and especially of war between kinsmen. He is sure that none of the chiefs of government on the continent can be less sensitive than he is to the sacred duty of making every endeavor to do away with the chances of fratricidal strife, and he looks with hopeful confidence to such active assistance from them as will serve to show the broadness of our common humanity and the strength of the ties which bind us all together as a great and harmonious system of American commonwealths.

Impressed by these views, the President extends to all the independent countries of North and South America an earnest invitation to participate in a general congress to be held in the city of Washington on the 24th day of November, 1882, for the purpose of considering and discussing the methods of preventing war between the nations of America. He desires that the attention of the congress shall be strictly confined to this one great object; that its sole aim shall be to seek a way of permanently averting the horrors of cruel and bloody combat between countries, oftenest of one blood and speech, or the even worse calamity of internal commotion and civil strife; that it shall regard the burdensome and far-reaching consequences of such struggles, the legacies of exhausted finances, of oppressive debt, of onerous taxation, of ruined cities, of paralyzed industries, of devastated fields, of ruthless conscription, of the slaughter of men, of the grief of the widow and the orphan, of embittered resentments that long survive those who provoked them and heavily afflict the innocent generations that come after.

Those are the thrice memorable words of James G. Blaine, Secretary of State, when he held aloft in the name of the great American Republic the ensign of peace and asked all the nations of the Western Hemisphere to rally beneath its folds.

Mr. President, I concede that there was but little thought then in the mind of that great man—this great man entitled in the light of those words to be denominated as the great philanthropist—that his words would be read in the Senate of the United States at a time when the question was not one of conflict between two feeble powers of Central or South America, but when it would be a question of difference between this great and all-powerful Government and one of the weakest of the peoples whom he then conjured to the ways of peace.

But, sir, can any Senator or any citizen of the United States take to himself for a moment the conclusion that while it was proper for the great Government of the United States thus to intercede and counsel the weak nations of this hemisphere that there should be peace among and between them, and that they should settle their differences by agreement, and if not by agreement then by the determination of some impartial tribunal—can the conclusion be taken, I say, by any Senator or citizen of the United States that while that was a legitimate desire and end to be accomplished, it did not relate to a case where the interests of the United States might come in conflict with the interest of one of those nations, or where there might be a controversy between it and one of the feeblest of those peoples?

Mr. QUARLES. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. With pleasure.

Mr. QUARLES. I have been very much interested in the discussion of the distinguished Senator. He always illuminates any subject he touches. But I should like to see if we can at this stage of his discussion arrive at something practical.

Mr. BACON. I will endeavor to be practical in my application before I get through. I hope the Senator will allow me to arrive at it by my own course.

Mr. QUARLES. Most assuredly. I would not ask to anticipate any of his discussion, but I was going to ask the learned Senator whether, notwithstanding all he has read and said, he looks upon the question raised by his resolution as belonging to that class of questions which great nations, or small ones either, are in the habit of submitting to arbitration?

Mr. BACON. If the Senator will pardon me, if he had been in the Senate all of the time he would have heard me say that I intended, as a corollary to the proposition which I am now endeavoring to submit to the Senate, to discuss that very question, and I propose to do so. If I can not succeed in showing that these differences do belong to this class, of course

The rest is all but leather or prunella.

Mr. QUARLES. That being so, I will not——

Mr. BACON. I do not object to any interruption, the Senator will understand, but I simply beg that he will allow me to answer his question at the point in my argument where I had designed to give attention to that particular inquiry.

Mr. President, the President of the United States, at that time Mr. Arthur, in his annual message of December, 1882, immediately succeeding the date of the circular letter of Mr. Blaine, used this language:

I am unwilling to dismiss this subject—

He was speaking then of the proposition that there should be convoked a congress of all the Central and South American and North American republics for the purpose of agreeing upon the pacific policy which was advocated by Mr. Blaine in the circular letter, and then he adds this:

I am unwilling to dismiss this subject without assuring you of my support of any measures the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust that the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

Mr. Harrison, the signally distinguished patriotic man who came from the State of the present occupant of the chair [Mr. BEVERIDGE in the chair], in transmitting to the Senate and House of Representatives the letter of the Secretary of State and the reports adopted by the conference of the American republics in the congress which had theretofore had its sessions in Washington uses this language:

EXECUTIVE MANSION, *September 5, 1890.*

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of State, which is accompanied by three reports adopted by the conference of American nations recently in session at Washington, relating to the subject of international arbitration. The ratification of the treaties contemplated by these reports will constitute one of the happiest and most hopeful incidents in the history of the Western Hemisphere.

BENJ. HARRISON.

That was all there was in the message.

Then comes Mr. Cleveland. I said that almost all of the Presidents since the civil war had advocated this policy. I have thus far given the utterances of every President since the civil war, other than Mr. Johnson, who was elected as Vice-President during the civil war and then succeeded to the office, but on the part of every President elected since the civil war there has been this most emphatic commendation and advocacy of this policy. I have cited from Grant, Hayes, Garfield, and Harrison, and now come to Mr. Cleveland. In the annual message of Mr. Cleveland, December 4, 1893, he uses this language:

By a concurrent resolution passed by the Senate February 14, 1890, and by the House of Representatives on the 3d of April following—

That is the resolution I have already read to the Senate and called attention to the fact that it had been passed by each House—

By a concurrent resolution passed by the Senate February 14, 1890, and by the House of Representatives on the 3d of April following, the President was requested to "invite from time to time, as fit occasions may arise, negotiations with any government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means."

That is a quotation from the resolution. The President continues:

April 18, 1890, the international American conference at Washington by resolution expressed the wish that all controversies between the republics of America and the nations of Europe might be settled by arbitration, and recommended that the government of each nation represented in that conference should communicate this wish to all friendly powers. A favorable response has been received from Great Britain in the shape of a resolution adopted by Parliament July 16 last, cordially sympathizing with the purpose in view and expressing the hope that Her Majesty's Government will lend ready cooperation to the Government of the United States upon the basis of the concurrent resolution above quoted.

That is simply introductory to the utterance I now read. He continues:

It affords me signal pleasure to lay this parliamentary resolution before Congress, and to express my sincere gratification that the sentiment of two great and kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

And again in 1897, January 11, in transmitting to the Senate the proposed treaty of international arbitration between the United States and Great Britain, President Cleveland uses this language, speaking of the proposed treaty:

Though the result reached may not meet the views of the advocates of immediate, unlimited, and irrevocable arbitration of all international controversies, it is nevertheless confidently believed that the treaty can not fail to be everywhere recognized as making a long step in the right direction, and as embodying a practical working plan by which disputes between the two countries will reach a peaceful adjustment as matter of course and in ordinary routine.

In the initiation of such an important movement—

I omit part of it which does not relate exactly to the point I am after. Further on he says:

The experiment of substituting civilized methods for brute force as the means of settling international questions of right will thus be tried under the happiest auspices. Its success ought not to be doubtful, and the fact that its ultimate ensuing benefits are not likely to be limited to the two countries immediately concerned should cause it to be promoted all the more eagerly. The example set and the lesson furnished by the successful operation of this treaty are sure to be felt and taken to heart sooner or later by other nations, and will thus mark the beginning of a new epoch in civilization.

Profoundly impressed as I am, therefore, by the promise of transcendent

good which this treaty affords, I do not hesitate to accompany its transmission with an expression of my earnest hope that it may commend itself to the favorable consideration of the Senate.

Mr. President, that brings us down to the utterances of the ever and universally lamented McKinley. I will say that this is not a sole utterance which I am about to read. When Mr. McKinley was a Member of the House he was one of the foremost advocates of peaceful negotiation for the settlement of differences rather than a resort to war or violence, and, in the failure of peaceful negotiations, to submit all those differences to the determination of an impartial tribunal. When he first took upon himself the great office, when he stood in front of this Capitol to take the oath of office, that first utterance from him contained the declaration of his adherence to this policy. He referred in his inaugural address to the proposed treaty with Great Britain and used this language:

Arbitration is the true method of settlement of international as well as local or individual differences. It was recognized as the best means of adjustment of differences * * * and its application was extended to our diplomatic relations by the unanimous concurrence of the Senate and House of the Fifty-first Congress in 1890. The latter resolution was accepted as the basis of negotiation with us by the British House of Commons in 1893, and upon our invitation a treaty of arbitration between the United States and Great Britain was signed at Washington and transmitted to the Senate for its ratification in January last. Since this treaty is clearly the result of our own initiative; since it has been recognized as the leading feature of our foreign policy throughout our entire national history—

In this statement Mr. McKinley gives affirmation to what I have endeavored to present as the fact to the Senate to-day regarding the settled policy of the United States—

the adjustment of difficulties by judicial methods rather than by force of arms; and since it presents to the world the glorious example of reason and peace, not passion and war, controlling the relations between two of the greatest nations in the world, an example certain to be followed by others, I respectfully urge the early action of the Senate thereon, not merely as a matter of policy, but as a duty to mankind. The importance and moral influence of the ratification of such a treaty can hardly be overestimated in the cause of advancing civilization. It may well engage the best thought of the statesmen and people of every country, and I can not but consider it fortunate that it was reserved to the United States to have the leadership in so grand a work.

Mr. President, if Mr. McKinley had been less impressed than he was with the great desire that peaceful negotiations should be the means by which differences should be settled, he might have pretermitted that utterance upon that occasion. He might have reserved it for a direct communication to the Senate, because the Senate was the power which was to deal with the question whether the treaty should be ratified. But, sir, Mr. McKinley, not content with that, took occasion upon the most eventful occasion of his life to say, not only to the Senate, but to all the people of the United States and to all the people of the world, that he was the apostle and the advocate of this benign policy.

Mr. President, I have taken a great deal of time in the effort to present the fact which I might have stated in a sentence, and that is that the people of the United States through memorials without number presented to Congress, and through the utterances of Congress, by direct enactment, and through the utterances through its committees and through unnumbered treaties has been and is most thoroughly committed to the proposition that without exception and without qualification, in proper cases, I will say, in order that I may not overstep the bounds—in all proper cases, with any country, great or small, the policy of this country favored this conciliatory action, involved concessions, if you please, and of arbitration in the failure of such effort through peaceful conciliatory measures. I say I might have stated that in a sentence and gone on, but I desired to put here in consecutive form, not all or by any means a hundredth part of what could be produced here, but enough to show that what Mr. McKinley said in his first inaugural is the truth, that it has been from the foundation of this Government the well-defined, loudly advocated, and persistently pressed policy of the Government and people of the United States that there should be peace between ourselves and other peoples, and that by peaceful means differences between this and other governments should be arranged and settled.

But I preferred, in order that emphasis might be given to it, thus to bring to the attention of the Senate these various utterances. I want to give emphasis to them in order that I might with the more earnestness invoke the conclusion which I will seek to present, that, bound as we are by this solemn plighted faith, repeated innumerable times, this is an occasion where we can not honorably refuse to abide by the rule which we have laid down, which we have so often reiterated, and which we have so uniformly practiced in all cases properly coming within the purview and jurisdiction of such negotiations. I shall endeavor hereafter to show whether this particular controversy does or does not so come within the class of those that should thus be dealt with. Before proceeding I desire to call the attention of the Senate to the fact that in pursuance of all these efforts, of all these utterances, of all these expressions of desire, of all this plighted faith, there was assembled in this city, as the result and under the provisions of an act of the Congress of the United States, a congress of all the Central and South American republics, and also including the Government of Mexico and the Government of the United States.

As a result of that congress there was framed a plan of international arbitration, and that was agreed to by all the representatives of those various governments, and was transmitted by the President of the United States, then Mr. Harrison, to the Congress of the United States. I have already read—and as it is short I will repeat it—the message of President Harrison transmitting the letter of the Secretary of State and the draft of the proposed agreement, in which the President so forcibly gave his adhesion to the general desire and intention of the work of that congress:

EXECUTIVE MANSION, *September 3, 1890.*

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of State, which is accompanied by three reports adopted by the conference of American nations recently in session at Washington, relating to the subject of international arbitration. The ratification of the treaties contemplated by these reports will constitute one of the happiest and most hopeful incidents in the history of the Western Hemisphere.

BENJAMIN HARRISON.

I can not read all of that agreement between all the representatives of the various countries, but here are the first two articles:

The delegates from North, Central, and South America—

Constituting what Mr. Blaine in his circular letter so happily termed "the great and harmonious system of American commonwealths"—

The delegates from North, Central, and South America in conference assembled: Believing that war is the most cruel, the most fruitless, and the most dangerous expedient for the settlement of international differences;

Recognizing that the growth of the moral principles which govern political societies has created an earnest desire in favor of the amicable adjustment of such differences;

Animated by the conviction of the great moral and material benefits that peace offers to mankind, and trusting that the existing conditions of the respective nations are especially propitious for the adoption of arbitration as a substitute for armed struggles;

Convinced by reason of their friendly and cordial meeting in the present conference that the American republics, controlled alike by the principles, duties, and responsibilities of popular government, and bound together by vast and increasing mutual interests, can, within the sphere of their own action, maintain the peace of the continent and the good will of all its inhabitants;

And considering it their duty to lend their assent to the lofty principles of peace, which the most enlightened public sentiment of the world approves;

Do solemnly recommend all the governments by which they are accredited to conclude a uniform treaty of arbitration in the articles following:

ARTICLE I.

The republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

ARTICLE II.

Arbitration—

I call attention to this particularly because it is, in a sense, a reply to the inquiry of the junior Senator from Wisconsin:

Arbitration shall be obligatory in all controversies concerning diplomatic and consular privileges, boundaries, territories, indemnities, the right of navigation, and the validity, construction, and enforcement of treaties.

It will be noted that in this Congress of all the American republics, including the United States, there is a distinct recognition that arbitration is obligatory for the settlement of all controversies growing out of the construction of treaties. This will be specially applicable to a subsequent portion of my remarks.

The proposed agreement, or, rather, the proposed treaty which was agreed to, goes on making all the provisions necessary for a complete agreement for arbitration providing the machinery, etc., and I only omit reading the whole of it because of my reluctance to take so much time of the Senate and my unwillingness to unduly encumber the RECORD.

I had here, but I have misplaced it—I hope to get it before I conclude—the statement of Mr. Blaine as to his estimate of that work thus done by that Congress. I desire to state in this connection that there were a number of bills introduced into either House of Congress for the purpose of bringing about this result. One of them was introduced by Mr. McKinley, another one was introduced by the present presiding officer of the Senate, Mr. FRYE, and another one was introduced by our distinguished colleague from Kentucky, now Senator MCCREARY, but then, like Mr. McKinley, an honored member of the House of Representatives, and, by the way, it was that bill introduced by Mr. MCCREARY which passed. It came to the Senate, some alterations were made, and upon a conference the bill was finally passed, which brought about this happy result.

Now, it is true that that treaty has never been enacted as a treaty. It has never been made the law; but it is nevertheless the truth that it expresses the desire and wishes and professed faith of the American people. It had the sanction of the Congress in the proposal for the legislation which brought it about. It had the sanction of more than one President—President Arthur, and President Cleveland, and President Harrison, and President McKinley. There can be no question that, so far as the moral, binding force of it is concerned, it thoroughly committed the

American people to the proposition that in all cases of difference between any one of the governments of North, Central, or South America and any other government of those two continents there should be peaceful arrangement, and, if necessary, arbitration.

I may have to read it out of its order when I get it, but I will nevertheless read the estimate of Mr. Blaine of the scope and importance and the great value of the work of that convention or congress in its effort to accomplish the design, to do away with wars or violences of any kind between the governments of North, Central, and South America, and the substitution therefor of peaceful negotiation, and of arbitration in the event of the failure of such negotiation.

Ten years thereafter, under the same authority, by the initiation of the President of the United States, another congress of the North American and Central and South American republics was convened in the City of Mexico; and while they formulated no treaty, in the report which I have before me, and which is entitled "Second International Congress of American States, held at the City of Mexico from October 22, 1901, to January 22, 1902," on pages 10 and 11 in the report made by the commissioners of the United States to the President, of which former Senator Davis, of West Virginia, was chairman, the statement is made that after prolonged effort in the attempt to bring certain Central American States to a consent to arbitration, and in some instances compulsory arbitration, the final outcome of the whole matter was that they agreed they would become signatories to The Hague convention, and in that way put themselves under the terms of that convention and declare it, as they termed it, a part of the international law to be controlling with the governments of North, Central, and South America.

Mr. President, after all the century of effort on the part of the people and Government of the United States to bring about this arrangement for peaceful negotiation and for international arbitration, as a conclusion and as a culmination we had the great Hague treaty, in which the Government of the United States solemnly pledged itself—and not only by the presence of its commissioners, but by the formal ratification of the treaty—that in all proper cases, certain exceptions being made, it would resort to peaceful measures for the settlement of difficulties and not resort to war for their determination.

Mr. SPOONER. Mr. President——

The PRESIDING OFFICER (Mr. CLAY in the chair). Does the Senator from Georgia yield?

Mr. SPOONER. I am only asking the Senator for information.

Mr. BACON. Certainly.

Mr. SPOONER. Has the Senator in mind the exceptions to which he referred this morning?

Mr. BACON. I have them right here, and I can read them. I will do so. I wish to read first another matter.

Mr. SPOONER. At your leisure.

Mr. BACON. I will read it in this connection directly, but here is a matter I passed over. I did not have before me the statement by Mr. Blaine of his estimate of the action of the first American conference, which assembled in Washington in the autumn of 1889. Mr. Blaine, then Secretary of State, said of it:

> If in this closing hour the conference had but one deed to celebrate, we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace, and to the prosperity which has peace for its foundation.

Alluding to the agreement which had just been executed.

Now, I will endeavor to read from The Hague treaty. I have so many papers here that I find it difficult to refer to them readily. Here it is. It is quite a voluminous document and I do not know that I can refer promptly to the particular part concerning which the Senator from Wisconsin makes inquiry. Does the Senator refer to the particular saving clause which was made in favor of the United States? Possibly the Senator will take the document while I proceed and call my attention to that particular part of it.

Mr. SPOONER. I did not refer to that. I referred to the New York memorial. There were some qualifications.

Mr. BACON. There were some.

Mr. SPOONER. There were some exceptions.

Mr. BACON. Is this what the Senator wished to see [handing document]?

Mr. SPOONER. Yes. I did not hear distinctly the qualifications.

Mr. BACON. Now, if the Senator will pardon me, I am coming to a direct discussion of that a little later, and I will then read it, if that will answer his purpose as well.

Mr. SPOONER. I only asked for information. I will look it up.

Mr. BACON. I regard that as quite important, and I intended to use it in a discussion of the question as to whether or not the assumed controversy between this country and Colombia——

Mr. SPOONER. Here is what I referred to [indicating].

Mr. BACON. I am glad the Senator calls my attention to it, because that brings me to say what I possibly should have said before.

Mr. SPOONER. That is not what I directed my inquiry to.

Mr. BACON. I understand; but I am glad my attention has been called to it for this reason: Much that I have quoted from documents and utterances relates to arbitration. The Senate will easily mark the fact that a commission of the Government to the policy of arbitration necessarily involves an adherence to the policy of agreement by treaty, if that is practicable. In other words, the one is connected in the other. There is no possibility of successful contention that a government could be in favor of the submission of a difference to the determination of a neutral and impartial tribunal and not at the same time be thoroughly committed to the proposition that if, without such submission, they can agree among themselves they should do so. I do not suppose there can be any question about that fact. So I have not stopped, as I have gone along, drawing attention to the various utterances in the one case for conciliation and in the other case for arbitration, to call attention to the fact that the advocacy of arbitration necessarily recognizes the advocacy of a conciliatory agreement, if that were possible, as a precedent to any submission to arbitration.

Mr. FAIRBANKS. Mr. President, may I interrupt the Senator?

Mr. BACON. Certainly.

Mr. FAIRBANKS. I do not understand, if the Senator please, that there is any very great divergence of view among Senators, or in the country for that matter, with respect to the wisdom of arbitration between countries in proper cases.

Mr. BACON. I am coming to that question.

Mr. FAIRBANKS. That seems to me to be the material question.

Mr. BACON. If the Senator will pardon me, I have already given assurance that I intended to discuss that question when I reached it in its proper order.

Mr. FAIRBANKS. I did not know whether the Senator was ready to touch upon that question or not.

Mr. BACON. If I do not do that, any man who knows the relation of a predicate to a conclusion must, of course, recognize the fact that all I have said goes for nothing. Senators on the other side do not realize that fact and are not more alive to it than I am. I recognize that, and if I do not succeed in doing that, then I have failed; but I want to get at it in the proper way.

Mr. SPOONER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. I do.

Mr. SPOONER. Of course, as to everything the Senator has said in favor of international conciliation, no one will dispute that that ought to be the attitude of nations—peculiarly, perhaps, of this. We will have no antagonism about it on this side of the Chamber, or I think anywhere in the country; and that means, as the Senator well says, a preliminary effort at conciliation.

Mr. BACON. A preliminary effort at conciliation.

Mr. SPOONER. A preliminary effort at adjustment without resort to war.

Mr. BACON. Yes.

Mr. SPOONER. In other words, arbitration before war.

Mr. BACON. Yes; if conciliatory conferences between the parties fail to accomplish an agreement, which will make arbitration unnecessary.

Mr. SPOONER. That is the general result of The Hague treaty. That is happily the trend of the sentiment in the world at this time. But I suppose the Senator will admit that no government yet, however——

Mr. BACON. I hope the Senator will let me proceed with that argument. I am coming to that very question.

Mr. SPOONER. However far it may have gone in the way of conciliation and arbitration, no government has ever been willing to submit to foreign arbitrament a question of national honor——

Mr. BACON. I am coming to all those questions.

Mr. SPOONER. Or political rights.

Mr. BACON. Well, yes; that, too.

Now, Mr. President, I am coming to what, of course, is the crucial question in the case, and possibly the long time I have consumed in presenting the evidence of the attitude of the people of this country and its Government for a hundred years has done nothing more than emphasize, as I have stated, what I might have said in a sentence.

At the same time I think it well that there should be presented in this consecutive form somewhat of the history, because I do not want it simply recognized, as it is by all Senators and by the people, that such is the fact. But I want the realization strong, complete, overwhelming, to be in every man's mind and heart that if this is in its nature a proper case for conciliation, if it is a proper case for submission to an impartial tribunal in the event of failure of attempted conciliatory measures, then there is no

escape from the conclusion that the United States are, through the utterances and pledges and practice of an hundred years, bound by every sentiment of honor and plighted faith to accord it to Colombia in this instance. I say I do not want it simply recognized as an independent, abstract fact that such has been the pledge and covenant, but I want it home in the heart and conscience of every Senator, which can only be impressed upon them by a review of these unnumbered utterances, both by the people and their government, their Congress, their Presidents, leaving no question whatever as to their settled conviction and purpose. As I have said, I have barely touched upon the record, but enough to indicate what has been for a century the unbroken and most solemnly uttered plighted faith of the people and of the Government in that regard.

Now, Mr. President, I come to the question: Is this a case where the plighted faith of this people and Government for a hundred years places them under obligations to endeavor to settle whatever differences there may be between the United States and Colombia by conciliatory negotiation if possible, and if that is impossible then by impartial arbitration? Are the differences which exist between the two countries and the issues which are presented by them of the character which devolve it as a duty upon this country to attempt their peaceful settlement either by negotiation or by arbitration?

Before I proceed to that I want to answer the question which my learned friend, the Senator from Indiana [Mr. FAIRBANKS], propounded to me as to the terms of this pending resolution, as to whether or not it assumes that any liability exists to Colombia on the part of the United States. I said to the Senator not only that I would endeavor to show that it did not, but that I would answer him then that it did not. An examination of the words of the resolution shows that there is no assumption of any liability on the part of the United States. The resolution simply states the grounds of difference which should be adjusted either by agreement or by arbitration.

I will again say to the Senator, however, what I said to the Senate when I addressed it upon this subject some considerable time ago, and of the resumption of which I have been denied the opportunity by a personal illness of some duration, that that is not the intention of the resolution; that I am not wedded to the phraseology, and that I am perfectly content that there should be taken out of the resolution anything which could be properly construed to assume that. And not only so, but that I am willing that there should be incorporated in the resolution language which shall distinctly negative it, just as was done by Great Britain in the Washington treaty. I certainly can not go further than that.

Mr. FAIRBANKS. Would the Senator so far modify it as to exclude the consideration of political questions?

Mr. BACON. Yes; so far as the submission of that class to arbitration. I am content with anything which shall commit the Government of the United States in the face of the world to the proposition that, whatever there may be of difference between the United States and Colombia, the United States, as a great overshadowing power which can not be compelled by this feeble power to do anything, will voluntarily endeavor to agree with it in the settlement of existing differences; and that if it can not come to an agreement by peaceful negotiations it will not assert its great and resistless power, but that it will endeavor to have a determination of such differences and the claims growing out thereof by some impartial tribunal.

Now, in further answer to the question of the Senator from Indiana, I again call his attention to the fact that this resolution contains two propositions—first, that there shall be an effort by negotiations directly between the parties to accomplish by agreement a peaceful settlement; and second, if an agreement can not thus be accomplished, that the questions of difference in that case shall be submitted to some impartial tribunal for determination and settlement. Now, it will be conceded that there are some classes of questions so closely affecting a nation that it would be unwilling to leave their determination to the judgment and will of any third party. But it must also be conceded that there should be no kind of difference that a nation would not be willing to itself endeavor to settle by agreement with the other nation. So all must recognize this as a correct proposition, that never mind what is the cause of difference, whether it relates to the honor of a country or to its internal policy or to anything else, there is no impropriety in the effort by negotiation to agree with the adversary, even though they may be questions which should not be submitted to the arbitration and determination of a third party. In the case of the direct negotiation between the parties there could be no conclusion which was not satisfactory to each party and agreed to by each party. There is no possible escape. So that if I should accede to the suggestion of the Senator from Indiana and have incorporated in this resolution words which would exclude the particular class of questions which he suggests, that exclusion ought not to relate to that part of the resolution which seeks to adjust such differences by negotiation between the parties. That exclusion in such case ought only to extend to the part of the resolution which proposes to submit any questions of difference to arbitration of a third party or tribunal.

And thus it is perfectly apparent that the character of the questions which may be involved can not be urged as an objection to that part of the pending resolution which advises negotiation between the United States and Colombia for the purpose of accomplishing an agreement between them and a peaceful settlement based on such agreement. Senators who oppose that feature of the resolution will have to seek for some other ground on which to base their objections.

Mr. FAIRBANKS. If the Senator will allow me——

Mr. BACON. Certainly.

Mr. FAIRBANKS. It appears by the note of the Secretary of State to General Reyes of the 5th instant——

Mr. BACON. I am coming to the discussion of that, if the Senator will permit me.

Mr. FAIRBANKS. Indicates that the questions they proposed for submission to The Hague tribunal were political in their nature.

Mr. BACON. I am coming to that; but I hope the Senator will keep in mind the suggestion which I have just made that, while the exclusion of a question of that kind might properly be made from any agreement providing for arbitration, there is no kind of difference that one party can not honorably talk to another about and settle by a satisfactory agreement between them.

Mr. SPOONER. Will the Senator allow me to ask him a question?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. Certainly.

Mr. SPOONER. Not for debate.

Mr. BACON. I am willing to yield to the Senator.

Mr. SPOONER. While the Senator is expressing his willingness to accept a modification of the language of the resolution——

Mr. BACON. Anything which preserves the principle of arbitration or conciliatory agreement.

Mr. SPOONER. I want to ask him if he would not be willing to strike out all after the word "*Resolved*" in the resolution——

Mr. BACON. No.

Mr. SPOONER. And insert: "The approval of the Senate or of Congress, to the tender by the Secretary of State or by the President to Colombia of the good offices of the United States to adjust all matters of difference between the Republic of Panama and the Republic of Colombia, to the end that good fellowship"——

Mr. BACON. I will come later to a discussion of that particular question——

Mr. SPOONER. The Senator is not willing to accept that amendment?

Mr. BACON. I will come to a discussion of that particular amendment before I get through, but I prefer to do it in a regular way, and if I fail to remember it, I hope the Senator from Wisconsin will call my attention to it.

Mr. SPOONER. I had no thought of discussion, but only asked the Senator a question.

Mr. BACON. Yes; but if I do not answer the question before I get through I hope the Senator will do me the kindness to call my attention to it, because, if I fail to do so, it will be through inadvertence. I am coming to that particular discussion, but that is behind this. I am now on the discussion of the vital question in the case: Whether, in view of their plighted faith, their unnumbered asseverations, their league and covenant, existing conditions do not make such a case as calls upon the United States for an attempted agreement for the settlement of any differences between the United States and Colombia, and whether, if such effort at agreement fails, the existing conditions do not, under their unnumbered professions and promises, demand of the United States an agreement for the settlement of these differences by arbitration.

Mr. President, before proceeding with that discussion and adverting to the particular phraseology of the resolution, and without stopping further to analyze it, I wish to again say that if the language of this resolution is susceptible of the construction which the Senator put upon it, to wit, that it assumes liability on the part of the United States Government, I am willing that the language to that extent shall be changed. Not only so, but I am willing that any recognition on the part of the United States Government shall be expressly negatived, just as it was in the case of the Washington treaty at the time when Great Britain entered into a treaty with the United States Government in 1871 or 1872 for submission to a tribunal at Geneva for the adjudication of claims of the latter against the former. There was an express denial by Great Britain of any recognition of liability, and

there is no impropriety in the insertion of such words here if desired. There would certainly then be no possibility of the construction to which the honorable Senator from Indiana thinks the resolution is open.

I do not, however, wish to be misunderstood relative to this matter. I think the resolution is all right as it stands and that it is not legitimately subject to the criticism made upon it. Nevertheless I am willing to the change suggested if that will secure the support of Senators on the other side. If, however, such changes will not secure the support of Senators, I prefer that the resolution shall stand as it now is.

I come now to the question as to what is the nature of the difference between the United States and Colombia for the purpose of seeing whether or not such difference is of a kind that this Government in the first place could recognize as a difference on account of which it could treat, not for the purpose of arbitration, but for the purpose of agreement with Colombia.

And first I submit this proposition as a sound one, that it matters not what the differences are or what their nature may be, those differences can be legitimately the subject-matter of conciliatory negotiations between the parties with a view to agreement, because that such negotiations do not submit the determination of any question to a third party, which the Government might not be willing to have anybody else decide for it. It keeps that decision to itself when it does not provide for arbitration by a third party as to those particular questions.

When the Government says, "I will treat with you, I will confer with you, I will negotiate with you as to this, that, or the other question," the Government reserves to itself the power to agree or not to agree to any proposition which the other side may make. Consequently there is no danger that its honor may be in the keeping of somebody else and that a question affecting its honor may be decided adversely by some one else.

When it comes to the question of submission to arbitration, then the case presented is different, and it is important to see whether or not the difference and the claim based thereon are of the class which can properly be submitted by the Government to the determination of some other party.

Mr. President, when this question was before the Senate for discussion upon a former occasion, we had had no communication which indicated what was the character of the claim made by Colombia and what was the character of the issue which the United States Government made upon those claims. We were limited in that consideration simply to the information which we gathered from the public press and from the utterances of parties in an unofficial way by which the public could gather conclusions as to what were the distinct matters in controversy. We knew the fact that Colombia had a representative here; we knew the fact that that representative was in conference with the Secretary of State; and we had the general information that propositions and counter propositions or presentation of claims on the one hand and a denial of the justice and correctness of those claims on the other hand were passing between the parties; but what they were we then did not have the specific information concerning.

Since that time the President of the United States has sent a message, in which he has communicated to Congress the distinct demand made by the representative of Colombia and the distinct reply of the representative of this Government, the Secretary of State. So that we do now know what the controversy is and what the issues are. Senators on the other side, at the time the matter was heretofore before the Senate, said that they did not know—I certainly did not—what was the character of the demands which were made; but we do know now. Here, in the communication sent to us by the President, is a long letter, in the first place, from the Colombian special minister (General Reyes) to Mr. Hay, which I will not stop to read in full; but on page 25 there is a distinct statement by General Reyes of the grounds of complaint against the United States Government and of the demands which he makes in consequence thereof. In the letter from General Reyes to Mr. Hay of January 6 he uses the language which I am about to read.

Whatever may be my personal opinion, I beg the Senate, before I read the language, to bear in mind that I am in no manner in this presentation asserting that any single thing that General Reyes says is correct or that any single proposition he makes is maintainable. I am simply trying to show what the controversy is, so that whatever may be the personal views of any Senator relative to the merits of the controversy he may still recognize the propriety of providing a means for the peaceful settlement of that controversy. I read it simply as his assumption, without, for the purpose of this argument, any recognition whatever of the correctness of any fact stated or any conclusion drawn; and then I propose to read the issue made thereon by Mr. Hay in his reply; and those two things join the issue. Then the question is presented whether that issue is of a character which could, in the first place, be properly dealt with by friendly negotiation without any reference to arbitration, and, in the second place, whether or not, in the absence of an agreement, it furnishes a legitimate subject-matter for arbitration under the recognized policy of this Government in that regard.

I will not read all of General Reyes's contentions nor all of the claims he makes, but simply the clear-cut proposition, on page 25, of the grievances of Colombia, as he alleges them to be, against the United States. He says in his letter of January 6:

> Mr. SECRETARY: I have received the note which your excellency did me the honor to address to me under date of the 30th of December last, in answer to mine of the 29th of the same month. I transmitted it by cable to my Government and have received from it instructions to make to your excellency's Government the following declarations:
>
> First. That the said note of the 30th of December from your excellency is regarded by my Government as an intimation that the Colombian forces will be attacked by those of the United States on their entering the territory of Panama for the purpose of subduing the rebellion, and that for that reason, and owing to its inability to cope with the powerful American squadron that watches over the coasts of the Isthmus of Panama, it holds the Government of the United States responsible for all damages caused to it by the loss of that national territory.

There is the distinct statement of the claim and the grounds upon which it is based.

> Second. That since the 3d of November last the revolution of Panama would have yielded, or would not have taken place, if the American sailors and the agents of the Panama Canal had not prevented the Colombian forces from proceeding on their march toward Panama, and that I, as commander in chief of the army of Colombia, would have succeeded in suppressing the revolution of Panama as early as the 20th of the same month if Admiral Coghlan had not notified me in an official note that he had orders from his Government to prevent the landing of Colombian forces throughout the territory of the Isthmus.

Then, on page 26, he says:

> Ninth. That on the grounds above stated the Government of Colombia believes that it has been despoiled by that of the United States of its rights and sovereignty on the Isthmus of Panama, and not being possessed of the material strength sufficient to prevent this by the means of arms (although it does not forego this method, which it will use to the best of its ability), solemnly declares to the Government of the United States:
>
> First. That the Government of the United States is responsible to that of Colombia for the dismemberment that has been made of its territory by the separation of Panama, by reason of the attitude that the said Government assumed there as soon as the revolution of the 3d of November broke out.

I repeat that, even if for the purpose of the argument that is recognized by us as an utterly unfounded claim, it is nevertheless the claim made, and that is on the one side. Now, Mr. Hay takes issue with General Reyes, and makes the statement which is found on pages 23 and 24 of the same document. It is true that Mr. Hay's contention is stated in a letter written prior to that time, but it is made by Secretary Hay in response to a letter previously written to him by General Reyes, in which practically the same contention was made, so that the issue is joined in that way. I only read from the subsequent letter of General Reyes to Mr. Hay, because he therein more concisely states the proposition than he did in the previous letter. Here is the contention of the United States on those issues:

> By the declaration of independence of the Republic of Panama a new situation was created. On the one hand stood the Government of Colombia invoking in the name of the treaty of 1846 the aid of this Government in its efforts to suppress the revolution; on the other hand stood the Republic of Panama that had come into being in order that the great design of that treaty might not be forever frustrated, but might be fulfilled. The Isthmus was threatened with desolation by another civil war, nor were the rights and interests of the United States alone at stake, the interests of the whole civilized world were involved. The Republic of Panama stood for those interests; the Government of Colombia opposed them. Compelled to choose between these two alternatives, the Government of the United States, in no wise responsible for the situation that had arisen, did not hesitate. It recognized the independence of the Republic of Panama, and upon its judgment and action in the emergency the powers of the world have set the seal of their approval.
>
> In recognizing the independence of the Republic of Panama the United States necessarily assumed toward that Republic the obligations of the treaty of 1846. Intended, as the treaty was, to assure the protection of the sovereign of the Isthmus, whether the government of that sovereign ruled from Bogota or from Panama, the Republic of Panama, as the successor in sovereignty of Colombia, became entitled to the rights and subject to the obligations of the treaty.

Mr. FAIRBANKS rose.

Mr. BACON. The Senator will pardon me. I think I can anticipate what he wants to ask. He will let me state it before he asks anything in regard to it, if he pleases.

Mr. FAIRBANKS. I will not interrupt the Senator if he is going to answer the question.

Mr. BACON. I will answer straight away. If I do not, I hope the Senator will interrupt me.

Now, if we assume for the purposes of this argument that every word that the Secretary of State says is true and that every word and conclusion drawn is correct, and if, on the other hand, we assume for the purposes of the argument that every word that the Colombian minister says is untrue and that every conclusion that he draws is unwarranted, nevertheless these conflicting claims and contentions make the issue. As to what the issue is, in part, I apprehend that the question the Senator was about to ask me is

this, Whether or not the question of the right of our Government to recognize another government should be submitted to arbitration?

Mr. FAIRBANKS. The Senator has anticipated the question I was going to ask.

Mr. BACON. Of course; and I most unhesitatingly say it should not be. I agree with the utterance of the Department of State that that is not a proper subject-matter of arbitration. But that is not the whole of the issue by a great deal. There is another important issue involved here that is entitled to consideration, and I am coming to specifics about it. Before proceeding to discuss that I will say to the Senator from Indiana that while the question of recognition, rightful or wrongful, of the independence of Panama could not be deemed a proper subject-matter of negotiation for arbitration, that question could be a matter for conference and agreement between the parties. However impossible it might be that the United States would ever concede any liability on account of such recognition, there could be no difficulty or impropriety in treating with Colombia with the view of removing irritation and hostile feelings which have been caused thereby.

But there is another point at issue raised between the two Governments by these conflicting claims and denials. On the one hand, it is contended by the Colombian minister that the United States Government has incurred a liability by reason of the fact that it prohibited, by the use of its armed forces, the Colombian Government from asserting its authority and thereby prevented Colombia from quelling rebellion. What is the reply that the Secretary of State makes to that? The Secretary of State admits it.

Mr. PLATT of Connecticut. Admits what?

Mr. BACON. Probably it will be better that I read what the Secretary of State says. The Secretary of State, in replying to the statement that Colombia has been wronged in that regard, says that when the United States had recognized the Government of Panama the treaty obligations which they had previously undertaken with Colombia inured to Panama, and that instantly, as soon as the recognition was made, the Government of the United States, by reason of the obligations of that treaty, was in a position where it was justified and required to use force to prevent any hostile demonstration by Colombia for the reassertion of its sovereignty in Panama, because so soon as Panama became by the recognition of the United States the sovereign of the Isthmus the obligation was instantly imposed upon the United States by the treaty of 1846 to protect the sovereignty of Panama in the Isthmus against all the world, including Colombia herself.

Mr. SPOONER. Right there let me ask, Does the Senator propose to submit that contention to arbitration?

Mr. BACON. If the Senator will allow me to proceed, I will state what it is. I do not think any Senator can think from what I am saying that I am trying to evade the question.

Mr. SPOONER. I do not think that.

Mr. BACON. Before proceeding to answer that question I wish to state with somewhat more of elaboration what I understand from this correspondence to be the claim of the Colombian Government on the one hand and the contention of the United States in reply thereto on the other hand.

The Colombian Government, through General Reyes, says that the United States, by use of their powerful squadron and by the use of their armed forces, prevented Colombia from using her forces to suppress the rebellion in Panama, and that in the absence of such intervention on the part of the United States and the protection thus given to the Panama revolution the rebellion would have been speedily suppressed, and that, in fact, it would never have taken place; and that by reason of such forcible action by the United States in aiding and protecting the revolutionists in Panama the Colombian Government has been despoiled by that of the United States of its rights and sovereignty on the Isthmus of Panama, and that the United States are responsible for the dismemberment of the territory of Colombia.

Our Secretary of State in his reply admits that the United States protected the sovereignty of the Republic of Panama as against Colombia by armed force, and justifies the action under the treaty of 1846 with Colombia, or New Granada, which is the same thing. The contention of the Secretary is that whereas in the treaty of 1846 the United States guaranteed the rights of sovereignty and property of Colombia in the Isthmus of Panama, so soon as Panama seceded and her independence was acknowledged all the rights of Colombia under that treaty inured to Panama, and that on the instant the United States became obligated by the treaty to protect the sovereignty of Panama in the entire Isthmus, even as against Colombia, with whom the treaty was originally made; that therefore the United States were justified in protecting the revolutionary government in Panama and in preventing by armed force Colombia from using her forces in suppressing the rebellion.

The clause in the treaty of 1846 upon which the Secretary of State bases this contention is found in the thirty-fifth article, and is as follows:

> And in consequence the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada (Colombia) has and possesses over said territory.

Under that clause of the treaty of 1846 the Secretary contends that the United States were right in protecting the new Panama Republic against the effort of Colombia to suppress the rebellion which set it up. The statement made by him to this effect in the extract already quoted is as follows:

> In recognizing the independence of the Republic of Panama the United States necessarily assumed toward that Republic the obligations of the treaty of 1846. Intended, as the treaty was, to assure the protection of the sovereign of the Isthmus, whether the government of that sovereign rules from Bogota or from Panama, the Republic of Panama, as the successor in sovereignty of Colombia, became entitled to the rights and subject to the obligations of the treaty.

From this it is seen that Colombia claims that the United States, by forcibly preventing Colombia from suppressing the rebellion, caused the dismemberment of her territory. The United States admit the protection of the Republic of Panama as against Colombia, and assert their duty so to do under the treaty of 1846, and thus the issue is clearly joined between the two.

Upon this issue thus presented the question whether or not the contention of the Secretary of State is correct is a question as to the correct interpretation of the treaty of 1846.

Now, the point I am coming to is this: The Senator from Wisconsin asked me whether that claim of Colombia on the one hand, and the contention of the United States on the other hand, constitute an issue which is a proper subject-matter of arbitration. I lay down this as a proposition, that the question of the proper construction of a treaty, including the question of whether there has been wrong done in the violation of a treaty, is a question which, above all questions, is recognized as the simplest and most natural question for treaty negotiation, for agreement, if possible, and for submission to other parties for decision, if such agreement can not be had. If there can be any successful dispute of that as a correct proposition I do not know where to find the basis upon which to rest the argument.

Mr. President, the Government of the United States makes no claim of any right in Colombia, makes no argument in justification of anything which has been done there, which is not based on rights, duties, and powers under the treaty of 1846. The whole question at controversy is one which grows out of the question of the construction of that treaty. The message of the President of the United States is one which bases the action of the Government of the United States upon the construction of that treaty; every argument which has been made in this Chamber in defense of what has been done has been necessarily based upon the question of the construction of that treaty; every argument which assails or disputes the propriety of the action which has taken place is based on the question of the construction of that treaty, and the question of the construction of a treaty is of all questions one which is a proper subject-matter of adjudication and arrangement either by agreement of the parties or by arbitration where such agreement can not be reached.

But in order that there may be no mistake about this matter——

Mr. SPOONER. Will the Senator permit me to ask him a question?—for I want to get at his position.

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. Yes.

Mr. SPOONER. What is the real dispute?

Mr. BACON. I am sorry the Senator was not in the Chamber when I stated it.

Mr. SPOONER. I am always sorry if I am out of the Chamber when the Senator is addressing the Senate. The Senator knows we can not be here all the time.

Mr. BACON. I understand that.

Mr. SPOONER. I should like, in a word, if the Senator will point out the precise basis of his observation that all that is in dispute here involves the construction of a treaty.

Mr. BACON. I have just stated it. I will state to the Senator—he has this document before him, and I do not want to read it over again.

Mr. SPOONER. But the Senator can state to me his contention.

Mr. BACON. I am endeavoring to do it.

Mr. SPOONER. I know that Secretary Hay contends that article 35 of the treaty of 1846, in its obligations as well as in its grant, upon the independence of the Republic of Panama, being a local obligation, became transferred to the Republic of Panama.

Mr. BACON. Yes.

Mr. SPOONER. And it is claimed, and I think correctly, that the corollary of that is that our corresponding correlative obligations that once had run to the Republic of Colombia were transferred to the Republic of Panama. Now, is it that dispute on

that question which the Senator proposes to submit to some foreign tribunal?

Mr. BACON. Not necessarily, if it can be arranged through friendly and conciliatory negotiations between the two Governments.

Mr. SPOONER. I want to remind the Senator, if that be true, that there are three parties now, if Colombia be one, interested in that subject—the United States, the Republic of Panama, and Colombia.

I should like, if I can, to get at precisely what the Senator proposes.

Mr. BACON. The Senator would get at it very much more quickly if he would let me proceed.

Mr. SPOONER. All right. I think that is true.

Mr. BACON. I repeat the proposition in brief. My proposition is that these documents, contained in the communication sent to us by the President, show that there is a controversy between the United States and Colombia, and that even if for the purposes of the argument we admit that there is no sound basis for the claim of Colombia it is nevertheless a controversy, and the fact is plain that that controversy grows out of the construction of the treaty of 1846.

Mr. SPOONER. If that is to become the rule, it will any day rest in the power of any government with which we have a treaty to force us into a position where we must submit the interpretation of that treaty to some foreign tribunal. If the merits of the controversy are not to be considered at all, if it is only that one party asserts it, however silly it may be, and the other denies it, and then this great principle of conciliation requires the submission of it to arbitration, I do not know what would become of treaties.

Mr. BACON. While I do not wish to discuss the merits of the controversy, I scarcely think that the denial of the remarkable contention of the Secretary of State will be pronounced to be "silly." Without discussing that, I simply repeat the proposition which I think the Senator will find it very difficult to controvert upon authority, that a controversy which grows out of a dispute as to the construction of a treaty and acts done under that treaty are recognized as proper matters of negotiation for arbitration. Now, if the Senator can produce any authority contrary to that, I should be very glad to see it. But I was about to say when the Senator interrupted me——

Mr. SPOONER. I beg pardon.

Mr. BACON. The Senator need not beg my pardon, because he is always at liberty to interrupt me, and he knows it. I only desire, in the interest of time, when I am trying to elucidate a certain point, that the Senator will let me proceed to do it, and if I fail, at the end of my effort in that regard, I shall be more than happy to have his suggestion to that effect.

The question of submission to arbitration is not the first or the main question in the resolution. It is the secondary question and the minor consideration. The main proposition and the one of greatest importance is that we will in a conciliatory spirit endeavor to agree with Colombia.

So, Mr. President, all I have said in reference to the committing of this great people and Government to the policy of arbitration is with the view of the recognition of the fundamental proposition, with which the Senator himself has already expressed his agreement, that every word said in favor of arbitration necessarily involves and implies the prior willingness of the governments to agree between themselves if they can do so. If that is the block in the way, if Senators are willing to say they are ready to adopt a resolution which shall simply advise the President that it is the sense of the Senate that there shall be negotiations opened with a view to negotiating a treaty for the settlement of all the differences between the two countries, without specifying what they are, I will accept that and be glad to have it done. It meets the great object that I have in view.

Sir, I have said that the purpose I had was to manifest a proper friendly spirit to this people and arrange for a peaceful settlement of our differences, and that we should not plant ourselves upon our strength and our might and say to those people: "While you think you have been wronged we know you have not been wronged, and as we know it we do not propose even to talk to you about it, and we will not treat with you or hear your complaint." That was the attitude of some here two weeks ago when the discussion was had. Senators on the other side of the Chamber then waxed indignant at the bare suggestion that the United States should even entertain or consider the proposition to treat with Colombia. They scoffed at and spurned it. The great and all powerful United States were not to even discuss the matter with this weak and feeble nation. That is what I object to.

It is excellent
To have a giant's strength; but it is tyrannous
To use it like a giant.

Mr. President, the Senator from Wisconsin [Mr. SPOONER] asks me to read the closing part of the memorial presented to the Senate in 1888 by David Dudley Field and others of the committee from New York, in which there was a specification of the class of cases which properly would be included in a treaty providing for a court of arbitration. I now read, for the purpose of my argument, and also in response to the request of the Senator previously made, as follows:

> We beg therefore most respectfully to ask from Congress the passage of a joint resolution requesting the President to propose to the Government of Great Britain the making of a treaty between the two nations, for a limited period at least, providing in substance that in case a difference should arise between them respecting the interpretation of any treaty—

That is the first specification—

> which they have made or may hereafter make with each other, or any claim of either under the established law of nations, or respecting the boundary of any of their respective possessions, or respecting any wrong alleged to have been committed by either nation upon the other or its members, or any duty omitted, it shall be the earnest endeavor of both the contracting parties to accommodate the difference by conciliatory negotiation—

That is the first thing, and that is what we want in this case—

> and that in no event shall either nation begin a war against the other without first offering to submit the difference between them to arbitrators, chosen as may be then agreed, or if there be no different agreement, then by three arbitrators, one to be chosen by each party and an umpire by those so chosen; it being understood, however, that arbitration as thus provided for shall not extend to any question respecting the independence or sovereignty of either nation, its equality with other nations, its form of government, its internal affairs, or its continental policy.

It will be noted that the very first dispute mentioned as furnishing properly a subject-matter for negotiation is any difference arising "respecting the interpretation of any treaty." It is really difficult to argue concerning a proposition so self-evident as that of difference respecting the interpretation of a treaty. If such a difference is to be excluded, what possible dispute of a serious nature between nations could be included? As reflective of American sentiment, I read to the Senate two editorial utterances of recent date which have appeared in prominent newspapers.

The first is from the Courier-Journal, as follows:

> There is nothing in the Bacon resolution which should so palpitate the honest heart. That resolution does not say that we shall pay Colombia for lost sovereignty over Panama. It merely proposes that we pay her if we have done her any wrong, and if we and Colombia are unable to agree whether we have done her any wrong, it leaves that, with other points on which we may differ, to arbitration. What is there in that which should cause clean hands to clench with rage, a clear conscience to seethe with commotion? If the Administration has not wronged Colombia, then, under the terms of the resolution, we should not have to pay Colombia.
>
> If negotiation or arbitration should prove that no such wrong was done by the Administration, then surely the Administration's innocence of such allegations would stand more clearly established before the world than it is by the Administration's mere word of assertion and protestation. And if negotiation or arbitration should show that we wronged Colombia, then why should we not pay her for what we have taken and propose to keep, without resorting to the Administration's roundabout and disingenuous method of paying for it by guaranteeing Panama's promises to pay.

The second is from the Independent, which, while approving of the action taken by the United States in Panama, advocates arbitration of the differences with Colombia growing out of such action. The editorial is as follows:

> Senator BACON has offered a resolution in the Senate proposing to refer to the Court of The Hague the question whether the United States owes reparation to Colombia for damage to her done by our action in securing or protecting the independence of Panama. We see no objection to that, for we want to make the most of arbitration, whether as a preventive to war or as a means to secure international justice—but, provided that Colombia first accepts the independence of Panama. That is an accomplished fact, achieved by the people of Panama, and having our full sympathy, recognized but not inaugurated by us. But as to this there is a sharp difference of view between Colombia and the United States.
>
> We declare that we have done absolutely nothing that is not justified by the law of nations and the treaty of 1846, while Colombia declares that we have unjustly prevented her from maintaining her supremacy over the Isthmus, to her serious loss and injury, such as she is entitled to go to war to assert her right. This is a question of fact and interpretation. If our officers have really done what Colombia asserts, we ought to pay damages; and if they have not done wrong, our innocence will be made clear to the world by such a reference, and we shall be on better terms with Colombia and all South America for such a decision. Accordingly, under proper provisions, we should favor such a reference to The Hague Court of the main question between Colombia and this country. Whether our officers were right or wrong, we ought to be equally ready to abide by the verdict of such an august tribunal of the nations.

There is to my mind no possible escape from the proposition that the controversy arises out of the construction of a treaty. We claim no right in Colombia or in Panama except under that treaty; they claim no right against us except as they claim a violation of that treaty; and, so far as the books can show, I do not think the industry of the Senator from Wisconsin or any other Senator can find anything which controverts the proposition that so far as a difference arising out of a treaty is concerned it is a proper subject-matter of arbitration; but, whether a proper subject-matter of arbitration or not, it is in the language of this memorial a proper subject-matter for "conciliatory negotiation."

If Senators desire to meet this proposition upon grounds that

they can approve, I am perfectly willing that this resolution shall be limited to the matter of conciliatory negotiations as to all differences between the parties. I do not think it can possibly be subject to any criticism there, that the Government would in any manner imperil its honor, or that a matter would be in negotiation between them about which nations ought not to negotiate with each other with a view to the prevention of differences.

The Senator from Wisconsin has asked me a question, to which I will now endeavor to reply, to wit, whether or not I would be willing that the resolution should simply provide that this Government would tender its good offices for the purpose of reconciling any differences between Colombia and Panama. I have two answers to that. In the first place, such a resolution would not touch the question as to the differences between Colombia and the United States. However much we may deny the correctness of any position taken by Colombia, we must recognize the fact that there is a contention on her part which, even if we deny its correctness, we should in a friendly spirit endeavor to settle and arrange by conciliatory negotiation. Therefore the suggestion of the Senator from Wisconsin would not in any manner cover that phase of the case.

Another thing which I desire to say, in all respect to the Senator, is this: If a guardian held an infant in his arms, and there was a cause of controversy between that guardian and a grown man, another grown man, relative to some property interest of that infant, the guardian might as well say: "I will exercise my good offices to arrange amicably the differences between this baby in my arms and yourself." We know, Mr. President, that so far as Panama is concerned she is there simply to do what we say about this whole matter.

We know another thing, that if this is an accomplished revolution Colombia has no claim against Panama. There might be some question about prorating the preexisting debt or something of that sort, but when a country achieves its independence and its independence is an accomplished fact, the country from which it has been wrested has no claim against the country which thus achieves its independence.

What is the claim that Colombia has against Panama? None whatever except the claim of a right to sovereignty over it. Is that a matter for negotiation? Is that a matter for settlement? Here is Colombia, whatever else the balance of the world has done, denying that its sovereignty has been rightfully wrested from it. If its denial is untrue, if its sovereignty has been wrested from it, then Colombia has no claim against Panama which Panama can for a moment consider. To consider it would be to admit that her independence had not been achieved.

Did the Government of Great Britain have any claim against the thirteen colonies when they achieved their independence? What they had won by the sword left no obligation from them to the Government from which they had won it. If Panama independence has been achieved, it is idle to talk about the claim of Colombia against Panama. Are we here to waste words?

Colombia contends that she has been aggrieved and damaged by the United States, and under the suggestion of the honorable Senator from Wisconsin we are to answer that contention by saying to her, "We will try to settle the difference between you and Panama and make Panama comply with the obligations that she has to you," when we know, when every man in the Senate, who is necessarily familiar with international law to that effect, knows that when Panama has achieved her independence there is no obligation left on the part of Panama to Colombia. And yet we are to answer the question as to whether or not there is a grievance on the part of Colombia against the United States by saying to her in that empty way, "We will try to see that whatever Panama owes you is paid," or words to that effect, when we know it does not owe her anything.

Nobody disputes the right of the Senate to address this communication to the President if it is a proper subject-matter, if the circumstances warrant it. It is recognized in numerous precedents that it is proper for the Senate to advise the President in advance of what it conceives to be a proper subject-matter for a treaty.

Senators contended on the 12th of January, the day when this resolution was presented and debated in the Senate, that it was improper to suggest that there should be any negotiations. That, at that time, was their opinion—on the 12th. It seems on the very next day after this resolution was thus presented and debated, the 13th, however, the Secretary himself, as is shown by this communication which has been sent here by the President, did suggest negotiations. On page 32 of this document is the statement by Mr. Hay that he is willing to the following:

> First. To submit to a plebiscite the question whether the people of the Isthmus prefer allegiance to the Republic of Panama or to the Republic of Colombia.
>
> Second. To submit to a special court of arbitration the settlement of those claims of a material order which either Colombia or Panama by mutual agreement may reasonably bring forward against the other, as a consequence of facts preceding or following the declaration of independence of Panama.

I think those submissions would be entirely ineffectual—I mean they would accomplish no good; and at the same time it is a step in the direction of negotiations with Panama. If the introduction of this resolution on the 12th and the debate in the Senate on that day stimulated the Secretary to his action on the 13th, as much as that action fell short of the requirements of the situation, the resolution has nevertheless not been entirely fruitless in the initiation of negotiations between the United States and Panama.

Mr. FAIRBANKS. The offices were to be extended in order to bring about proper relations between Panama and Colombia.

Mr. BACON. Yes, I understand. But it is evident that Panama is only used as a buffer in a transaction to which she is not a party.

Mr. FAIRBANKS. The Secretary says:

> This Government is now, as it always has been, and as I have frequently had the honor to inform your excellency, most desirous to lend its good offices for the establishment of friendly relations between the Republic of Colombia and that of Panama.

Mr. BACON. I understand that, and he also suggested that the United States would be willing to submit to a court of arbitration the settlement of claims between Colombia and Panama, which, as I have already endeavored to show, replying to the Senator from Wisconsin, would amount to nothing. It looks very much like the case I have just put, as an illustration, of a guardian with a baby in his arms offering his good offices to settle differences between another man and that baby. The only practical thought connected with the suggestion of the Secretary is that the United States feel constrained to make reparation to Colombia, but prefer to do it in the name of Panama. Which is the manlier, nobler method—that one, or the open, frank method of negotiating directly with Colombia and coming to an agreement with her without masquerading behind little Panama?

But I want to call the attention of Senators to the statement of the Senator from Rhode Island [Mr. ALDRICH] yesterday, made in this Chamber. In speaking about this very question of the relations between Colombia and the United States, the Senator said this:

> And not upon negotiations—

Speaking about the question of information to be had from the State Department or from the President—

> And not upon negotiations of a difficult and delicate character, perhaps, which are now going on between some of these governments in regard to matters which have grown up since the treaty was negotiated.

Mr. FAIRBANKS. From what page of the RECORD does the Senator read?

Mr. BACON. Page 1308.

Mr. PLATT of Connecticut. The Senator from Rhode Island is absent from the Chamber. If he were here, I do not think he would admit that he stated upon his knowledge that negotiations were now pending.

Mr. BACON. No; he said "perhaps."

Mr. PLATT of Connecticut. Yes.

Mr. BACON. He said "perhaps." I have read his language.

Mr. PLATT of Connecticut. It was by way of illustration, as I understood it.

Mr. BACON. Of course those of us who are not on the inner circle have not definite information, and it is to be regretted that we are now told by some who are on the inner circle that he did not mean what we understood him to mean.

I repeat what I said upon a former occasion—that I recognize as a concluded fact the revolution in Panama, and that it is not going to be undone. I want to add to that another fact which I recognize as an undoubted one, and that is that there is to be no more controversy as to where the canal is to be dug. I recognize that it is going to be built at Panama.

These are two recognized facts, to my mind, and out of them there grows to me this conclusion: That viewed from a selfish standpoint there is no more important duty resting upon the Government of the United States now than to remove whatever cause of friction or of ill feeling there may be between the Government of the United States and the Government of Colombia; and I think that being an accomplished fact, the revolution being an accomplished fact, the Government of Colombia having no possible opportunity in the future to be recompensed for whatever it may claim to have suffered by any restoration of this territory, the only possibility being that she may be recompensed in some other way, I am strongly of the opinion that the very best investment we could make in connection with this matter would be a liberal concession to that country which would remove the present feeling of hostility and make those people our friends in the future.

There is one feature of this controversy about which there can be a conciliatory negotiation without compromising any honor or

any suggestion of it, and that is this: There is no question about the fact that Colombia denies the loss of her sovereignty in Panama: that she denies the independence of that country. In other words, that she still claims it as a part of her territory, and will again subject it to her authority if she can ever do so.

We, on the other hand, say that the title of Panama to her independence is complete; but nevertheless there is the claim of Colombia, out of which controversy will grow and future difficulty will grow. Is there any dishonor in our negotiating with Colombia that she shall make a quitclaim to that title? I would be willing to pay to Colombia ten times as much as I think her claim is worth, or a hundred times, if you please, if thereby peace is going to be had between Colombia and the United States.

It matters not that it may be, as suggested by the Senator from Connecticut [Mr. PLATT] the other day, that there is no danger of an outbreak of war.

If there are hostile relations between that country and this country, we are necessarily committed for an indefinite time to a condition of predatory or guerrilla warfare, if no other. We are thereby necessarily put into a position where we must maintain a suitable army there. We are necessarily put in a position where even though there is no open declaration of war we will have to protect that property against the predatory bands of an unfriendly people and protect those who are there engaged either in the construction of the canal or its operation, and what that will cost will outweigh a dozen times the amount of money that we would pay to that country and thereby get friendly relations between us. And, sir, this condition of hostility with the Colombian people will not only cost us treasure; it will during long-continued years cost us the lives of our soldiers, officers, and men—lives compared with the value of which the money necessary to make these people again our friends is as dust in the balance.

Mr. President, another suggestion. I have no doubt that the time is coming—in what way or when, I do not know—when the United States Government is going to secure the possession of that Isthmus and own it. When that comes I do not wish that Colombia shall have this unsettled claim with which to harass us. If we are to construct the canal successfully and without undue cost and without the loss unnecessarily of life and treasure, it is important that we should have the friendship of that people.

If we are to operate the canal and protect it successfully thereafter, without undue cost and sacrifice, it is necessary that we should have their friendship and cooperation, and the only way to have their friendship is to agree with them, by the way, before it is too late. We should, as his constitutional advisers, say to the President: "We advise that there shall be such conciliatory negotiations between this country and Colombia as will bring about, as soon as practicable, a friendly condition of affairs."

Mr. President, another thing. Does any man doubt that even if that country is——

Mr. SPOONER. That is a very different thing from your resolution.

Mr. BACON. No; it is not. The first part of the resolution refers exclusively to negotiations looking to an agreement between the two nations and will include all kinds and subjects of friendly and conciliatory negotiations.

Mr. SPOONER. But, Mr. President, if I may take just a moment, the first part of the resolution refers to the negotiation of a treaty. I never heard before of the Senate advising the President to negotiate a treaty for ratification by the Senate unless the Senate was of opinion that there was some substantial and honest difference whereby we became equitably indebted or beholden to the other government.

Mr. BACON. If the Senator will pardon me, exactly the opposite of that was the case on the part of Great Britain in the Washington treaty. The United States claimed that the Government of Great Britain was indebted to citizens of the United States by reason of the fact that the Government of Great Britain had not restrained war vessels which were to be used by the Confederate government from departing from their ports; that by reason of that neglect on the part of Great Britain those vessels did depart from their ports and preyed upon the commerce of the United States, and that therefore the British Government was under liability and obligation to make good the losses.

Now, when it came to the negotiation of that treaty, the British Government, while it agreed to the treaty for arbitration, expressly said in the body of the treaty that it did not recognize that there was any liability on its part. So that is a case exactly in point with the suggestion of the honorable Senator and fully answers his criticism.

It is entirely competent, if there is a controversy between two nations, for a nation which utterly disowns and disavows any liability to say: "For the purpose of the settlement of this controversy, wherein we deny our liability, we will enter into a treaty with you looking to its determination and settlement in some way, either by conciliatory negotiation or by arbitration." In every case the controversy is due to the fact that one party makes a claim which is denied by the other party. That makes the issue, and it is the existence of that issue which calls for adjudication by arbitration. So the Senator, I think, is entirely wrong in that contention.

Another thought not unworthy of our consideration, Mr. President, is that even if Colombia is too feeble to go to war with us, even if she recognizes her feebleness to the extent that she makes no declaration of war and attempts to wage no war, the very fact that she permits the accomplishment of the revolution in Panama without an attempt to prevent it will certainly throw that country into the throes of civil war.

Mr. President, in view of all our professions concerning our care and regard for the American republics, are we under no moral obligation, in the presence of such a situation as that? Are we under no moral obligation even to treat with a country with a view to arriving at some agreement which will soothe their wounded and angry pride and which will prevent these internal commotions among her people?

I confess, sir, that there was pity stirred within me when I read the extract from the letter of General Reyes to Secretary Hay of December 23, 1903, which is found on page 9 of the communication sent in to us by the President of the United States. It is as follows:

> Sad indeed is the fate of my country, condemned at times to suffer calamities from its own revolutions and at others to witness the unexpected attacks of a powerful but friendly State, which for the first time breaks its honored traditions of respect for right—especially the right of the weak—to deliver us pitilessly to the unhappy hazards of fortune.

Then another thing, Mr. President, we have American citizens in that country who own property, and they are jeopardized by this condition.

I have a letter now from a citizen in my own town, whose brother resides in Colombia. This brother, whose business and property are in the interior of that country, has gone to Cartagena because he is afraid to stay in the interior. He writes to his brother that he fears and apprehends the loss of all his property on account of the unfriendly nature of the feelings of the people of that country to the people of the United States, growing out of this proposition. This is doubtless only one of many similar instances.

I am, sir, willing for one, and I believe the American people are willing, that we should deal liberally with the Colombians, because, I repeat, what are a few paltry millions to this great Government compared with the great advantage to this Government of making a friendly, satisfactory arrangement with that people?

I have heard it said—I do not know whether truly or not, I do not pretend to say now that it is true, but it is repeated around—that the Government of Colombia has proposed to the United States that it will be entirely satisfied, that it will produce a restoration of good feeling, that it will surrender all claims on Panama and on the canal if this Government will devote $10,000,000 to the building of a railroad from a point on that canal to the city of Bogota.

I do not know whether there is a particle of foundation in that report, but if there is I do not think there is anything which this Government could do which would be more to the interest of the Government in connection with that enterprise than to do it, for two reasons.

In the first place, it would bring about that condition of friendly feeling which is so important, and, in the second place, it would really very largely add to the value of the canal when constructed to have such a railroad leading into a country filled with minerals and especially abounding in the coal which will be needed by the ships traversing the canal.

Mr. President, why should we hesitate or delay in inaugurating these negotiations for a settlement so consonant with justice and with our professions of a century and so important to our future interests? Delay is fruitful of evil. Each day adds to the ill feeling of the Colombians. The seeds of popular prejudice and hate, when they once germinate in a national soil, are most difficult of eradication.

Do we delay because the great United States are too proud, too vainglorious, to offer conciliation to a feeble people powerless to cope with it? I am sure, sir, that this is not the wish of the American people, but that, on the contrary, it is their wish that examination be made and that whatever is due to Colombia from us shall be paid in liberal measure.

Mr. PLATT of Connecticut. Mr. President, I do not rise to make a speech in reply to the Senator from Georgia, but simply to suggest that if it is to be the understood policy of the United States that whenever another country makes a claim against us, or whenever there is a controversy between us and another country, in which we do not acknowledge the ground of the claim or

that we have done any wrong, we are to buy our peace at the rate of $10,000,000 or more, we shall have plenty of claims made against the country and plenty of controversies on our hands.

Mr. CULLOM. Are there any in sight? I should like to have the Senator state whether he knows of any movement already in reference to claims of that sort.

Mr. PLATT of Connecticut. We shall hear from them. If, admitting that we have done no wrong to Colombia, we buy our peace of her for the sum of $10,000,000 we shall hear of claims, and hear of them again from Colombia. If when we have done no wrong and if when we do not for a moment admit the justice of her claim, we put ourselves in the position of saying we will pay $10,000,000 rather than have any trouble with you, she will be able in six months' time to have another claim and another controversy with us; and so with other nations. This bill would make us enter on an interminable policy of buying our peace whenever any other nation concludes to make a claim against us.

ADJOURNMENT TO MONDAY.

Mr. CULLOM. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until Monday, February 1, 1904, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 29, 1904.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

Walker W. Joynes, a second lieutenant, to be a first lieutenant in the Revenue-Cutter Service of the United States, in place of Percy W. Thompson, promoted.

Percy W. Thompson, a first lieutenant, to be a captain in the Revenue-Cutter Service of the United States, in place of John W. Howison, retired.

Horatio N. Wood, a first assistant engineer, to be a chief engineer with the rank of first lieutenant in the Revenue-Cutter Service of the United States, in place of James A. Severns, retired.

John Q. Walton, a first assistant engineer, to be a chief engineer with the rank of first lieutenant in the Revenue-Cutter Service of the United States, in place of John E. Jefferis, retired.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 29, 1904.

APPRAISER OF MERCHANDISE.

John Linzee Snelling to be appraiser of merchandise in the district of Boston and Charlestown, in the State of Massachusetts.

POSTMASTERS.

ARIZONA.

George W. Dietz to be postmaster at Congress, in the county of Yavapai and Territory of Arizona.

CALIFORNIA.

Martin C. Beem to be postmaster at Fort Jones, in the county of Siskiyou and State of California.

Percy B. Fulton to be postmaster at Dinuba, in the county of Tulare and State of California.

E. T. Ketcham to be postmaster at Santa Maria, in the county of Santa Barbara and State of California.

John W. Wood to be postmaster at Pasadena, in the county of Los Angeles and State of California.

IOWA.

Walter M. Cousins to be postmaster at Alden, in the county of Hardin and State of Iowa.

KANSAS.

June B. Smith to be postmaster at Cottonwood Falls, in the county of Chase and State of Kansas.

MAINE.

Rufus C. Reed to be postmaster at Damariscotta, in the county of Lincoln and State of Maine.

MASSACHUSETTS.

George P. Bliss to be postmaster at Florence, in the county of Hampshire and State of Massachusetts.

MONTANA.

Louis V. Bogy to be postmaster at Chinook, in the county of Choteau and State of Montana.

J. E. Sheridan to be postmaster at Bigtimber, in the county of Sweet Grass and State of Montana.

NEBRASKA.

Joshua H. Evans to be postmaster at Callaway, in the county of Custer and State of Nebraska.

SOUTH DAKOTA.

John Longstaff to be postmaster at Huron, in the county of Beadle and State of South Dakota.

UTAH.

Edwin R. Booth to be postmaster at Nephi, in the county of Juab and State of Utah.

Lars O. Lawrence to be postmaster at Spanish Fork, in the county of Utah and State of Utah.

Joseph Odell to be postmaster at Logan, in the county of Cache and State Utah.

John Peters to be postmaster at American Fork, in the county of Utah and State of Utah.

WASHINGTON.

Harry C. Bilger to be postmaster at Clealum, in the county of Kittitas and State of Washington.

William M. Clemenson to be postmaster at Clarkston, in the county of Asotin and State of Washington.

Richard Connell to be postmaster at Odessa, in the county of Lincoln and State of Washington.

Oscar C. Truax to be postmaster at Tekoa, in the county of Whitman and State of Washington.

William P. Ward to be postmaster at Rosalia, in the county of Whitman and State of Washington.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 29, 1904.*

The House met at 12 o'clock noon.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Almighty and most merciful God, our Heavenly Father, we thank Thee for the good, the pure, the true, the noble whom Thou has raised up in every age of the world's history to be leaders among men, the trend of whose lives have ever been toward the ideal. So we thank Thee, Heavenly Father, for the beautiful character of our beloved McKinley, whom we remember with grateful hearts to-day for the things that he did, and for the example of Christian character and fortitude he left to us in his life and death. So move, we beseech Thee, upon the hearts of Thy children that truth and righteousness and good will shall reign everywhere, in and through the spirit of the Lord Jesus Christ. Amen.

The Journal of yesterday's proceedings was read.

CORRECTION.

Mr. THAYER. Mr. Speaker, on January 21 I introduced a joint resolution proposing an amendment to the Constitution of the United States of America to keep its land always equally divided among all its people. I introduced that resolution by request and had no personal responsibility for it. This morning I was shown an editorial in the New York Sun, in which, among other things, criticising the resolution, it says: "Mr. THAYER takes full responsibility for his resolution and does not label it 'by request.'"

I at once undertook to write a letter to the New York Sun, dictating it to my secretary, when he said: "Mr. THAYER, I saw the printed resolution, and it did not say upon it that it was introduced by request." Whereupon I came to the House and found the resolution already printed and that it was in keeping with the assertion of the New York Sun in its editorial that it was not done by request.

When the resolution was presented to me I went to the file clerk's office, three of the clerks of whom are sitting here now and will bear testimony to the truth of what I am saying, and asked what was a Representative to do when asked to introduce a bill or resolution that he did not wish to be responsible for—what was the proper thing to do? I was told by them that they did not know what the custom was, but when a resolution was introduced if the Member stated it was done by request that relieved him from personal responsibility. I took this precaution in introducing the resolution in order that my action might correspond to that of the regular custom. Now, Mr. Speaker, in justice to myself, and in justice as well to those who believe in the resolution, I ask that the resolutions as printed may be suppressed and that others may be printed in their stead in accordance with the

fact and in accordance with the records of the House. This is apparently a mistake of the printer and not of those who keep the records in the House, as the books here show that the resolution was introduced by request.

The SPEAKER. The Journal seems to be correct. What is the gentleman's request?

Mr. THAYER. That the resolutions already printed be suppressed and that others be printed in their stead, containing a record of the fact.

Mr. PAYNE. Did the gentleman write the words on the back of the resolution that it was introduced by request?

Mr. THAYER. I did; and I hold the original resolution in my hand with those words indorsed thereon.

The SPEAKER. Without objection, the printed bills in existence will be suppressed, so far as it relates to the House document room, and a new print will be ordered in accordance with the gentleman's suggestion. The Chair hears no objection.

The Journal was then approved.

URGENT DEFICIENCY BILL.

Mr. HEMENWAY. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the urgent deficiency bill.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. TAWNEY in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 10954, the urgent deficiency appropriation bill. General debate having been exhausted, the Clerk will proceed with the reading of the bill.

The Clerk, proceeding with the reading of the bill, read as follows:

For expenses of the Commission on International Exchange, appointed under the provisions of the sundry civil act of March 3, 1903, to bring about a fixed relationship between gold-standard and silver-using countries, $100,000.

Mr. HILL of Connecticut. Mr. Chairman, I desire to make a point of order against the provision just read.

The CHAIRMAN. The gentleman will state it.

Mr. HILL of Connecticut. That it is new legislation and has no authorization by any act of Congress and has never been considered by Congress. I make the point of order with the full expectation that it will be recognized, and, if it is, I do not care to take the time of the House in discussing it. I will ask the gentleman from Indiana, in charge of the bill, if he does not recognize the fact that the point of order is well taken?

Mr. HEMENWAY. No; Mr. Chairman, I insist that it is not subject to a point of order.

Mr. HILL of Connecticut. Mr. Chairman, I desire to state that this matter has never been before Congress in any way, shape, or manner, except an item of $25,000 in the sundry civil bill of last year. I call the attention of the Chairman to repeated decisions by the chairmen of committees in this House that such an item inserted in an appropriation bill in one year does not constitute an authority in such a way as to permit it in the shape of new legislation to be put on another appropriation bill. I call the attention of the Chairman especially to page 346 of the Digest, which reads:

An appropriation for an object in an annual appropriation bill makes law only for that year, and does not become "existing law" to justify a continuance of the appropriation.

That would absolutely throw this item out of this bill. I also call attention of the chairman to page 349 of the Digest, relating to salaries, which reads as follows:

In the absence of a general law fixing the salary, the amount appropriated in the last appropriation bill has sometimes been held to be the legal salary, although in violation of the general rule that the appropriation bill makes law only for the year.

I call attention now to the next citation:

The mere appropriation for a salary does not thereby create an office, so as to justify appropriations in succeeding years.

I now call the attention of the chairman to the item itself to which I am referring, as found in the sundry civil bill of last year, and which reads as follows:

To enable the President to cooperate through diplomatic channels with the Governments of Mexico, China, Japan, and other countries for the purpose set forth in the message of the President and accompanying notes submitted to Congress January 29, 1903, and printed as Senate Document No. 119, second session Fifty-seventh Congress, $25,000.

Now, Mr. Chairman, there was absolutely no authority whatever for that appropriation at that time. It never was in the House in any way, shape, or manner prior to its being put onto this bill as an amendment by the Senate. It was not only in violation of the rules of this House, but it was in violation of the rules of the Senate itself.

The CHAIRMAN. Will the gentleman from Connecticut inform the Chair the page on which the original law authorizing this commission is to be found?

Mr. HILL of Connecticut. I will take great pleasure in submitting the law itself to the Chair. That amendment never was in this House. It was not an original item in the sundry civil bill last year. It was an amendment put on of $100,000 in the Senate, in violation of its own rules as well as in violation of the rules of the House, and came over here when the bill was brought back from the Senate. It was reduced in conference from $100,000 to $25,000, and I think I may say, and that I knew at the time, that that was to be the end of that proposition. The $25,000 inserted in violation of the rules in both bodies last year, it is now claimed becomes an authorization for all future time.

Mr. PAYNE. May I ask the gentleman a question? What difference does it make whether it was against the rules or not, if it became a law finally?

Mr. HILL of Connecticut. It makes no difference as a legal proposition, I suppose, but it makes a very great difference in another way, and it seems to me it is time that the House of Representatives asserted its own dignity and began to put a stop to that kind of procedure.

Mr. PAYNE. The House can not prescribe rules for the Senate. I wish it could.

Mr. HILL of Connecticut. Now, Mr. Chairman, I make this claim, that the appropriation, as inserted in the sundry civil bill last year, without any previous authorization, terminated with that appropriation, in accordance with decisions made over and over again, and that putting it on here in a new appropriation bill is new legislation, and that point of order has been sustained over and over again by past decisions of the House.

Mr. HEMENWAY. Mr. Chairman, this question substantially was determined the other day in respect to an item on the army appropriation bill, where, by amendment of the Senate, $400,000 was appropriated for the construction of a building at Washington Barracks. I made the point of order that its not being authorized by law, an additional appropriation for that work was not in order, and that the fixing of $400,000 in the bill was a limit, and that no appropriation in addition to the $400,000 could be made. The item went upon the bill just exactly as this item went upon the sundry civil bill in the last Congress. It was a Senate amendment, which was agreed to in conference, and of course passed the House, as all of the provisions have to pass the House before they become law.

The Chair then held that, being a public work in progress, the item of $300,000 on the army appropriation bill was in order. I think the Chair was correct in that holding. Here is a provision of law:

To enable the President to cooperate through diplomatic channels with the Governments of Mexico, China, Japan, and other countries, for the purpose set forth in the message of the President and accompanying notes, submitted to Congress January 29, 1903, and printed as Senate Document No. 119, second session, Fifty-seventh Congress, $25,000.

There is authority authorizing this appropriation and authorizing the Government to enter upon this public work—to wit, the bringing about through diplomatic channels and otherwise certain agreements with Mexico, China, and Japan. Now, that work is in progress. A Commission has been appointed. That Commission is now at work under authority of this law.

On this bill we report a provision for $100,000 more of appropriation to continue this work which is now in progress, and which was authorized by law passed in the last session of the Fifty-seventh Congress. It is exactly the case which was decided by the Chair five or six days ago, where I contended on the other side of the proposition that where an appropriation of $400,000 was made the work was limited to the $400,000. The Chair held I was not right in my contention and that the gentleman from Iowa [Mr. HULL] was right in his, and that that being a public work in progress the additional appropriation could be made. It is exactly the same case, and I have no doubt the Chair will rule in the same way.

Mr. LIND. Will the gentleman permit me a question? Do I understand the tenor of his argument to be that our Government is committed to the proposition of international bimetallism?

Mr. HEMENWAY. Oh, not at all.

Mr. HILL of Connecticut. That is the effect of it.

Mr. HEMENWAY. Oh, no; there is absolutely nothing in this provision that gives anybody the right to commit the Government to any proposition. Congress alone can commit the Government.

Mr. LIND. There is no law authorizing it?

Mr. HEMENWAY. Here is the law:

To enable the President——

Mr. LIND. Will the gentleman permit another question?

Mr. HEMENWAY. I hope the gentleman will allow me to answer the one he has already submitted.

To enable the President to cooperate through diplomatic channels with the Governments of Mexico, China, Japan, and other countries for the pur-

pose set forth in the message of the President and accompanying notes submitted to Congress January 29, 1903, and printed as Senate Document No. 119, second session Fifty-seventh Congress, $25,000.

Now, as I understand that provision, it authorized the President to appoint a commission to try to bring about a fixed rate of exchange between Mexico, China, Japan, and other countries and the United States——

Mr. LIND. A fixed rate of exchange for gold and silver.

Mr. HEMENWAY. Giving to that Commission no power in any shape or manner to commit the Government, but simply to try to bring about some arrangement which should afterwards be submitted for approval to the Congress of the United States and to the legislative body of the country or countries joining in the agreement.

Mr. LIND. Then does not the gentleman contend that the point of order is not well taken, because this Government by prior legislation is committed to the proposition of securing stability of international exchange as to gold and silver?

Mr. HEMENWAY. The Government is not committed to it in any way. We are simply trying to bring about, through our diplomatic corps and through this Commission, fixed rates of exchange. When such an agreement has been brought about by negotiation, then Congress will have to legislate upon the question. The Government can only be committed by legislation—not by any agreement which this Commission may be able to arrive at with other countries.

Mr. LIND. The question to which I desire to get a specific answer is this: If, as I understand, existing law commits the Government to these negotiations, then the point of order is not well taken. If it does not, the point of order is well taken, it seems to me.

Mr. HEMENWAY. I do not think the gentleman is correct in his statement. Of course, the Government will not be committed to any agreement made by this Commission. The object of the Commission is to bring about fixed rates of exchange between this country and other countries. For instance, in the dealings between citizens of this country and citizens of Mexico—I may not be exactly accurate, but I understand the fact to be that the price of exchange in Mexico ranged last year from about $2.16 to $2.85.

So a merchant in Mexico buying, we will say, an engine and a boiler from some manufacturer in the United States to-day contracts to have the engine and boiler delivered sixty days from now. It may be that exchange to-day is $2.20, but on the day of the delivery of that machinery it may have run up to $2.50. There is no fixed basis on which business can be done as between the two countries.

Now, this Commission hopes to bring about a fixed rate of exchange, so that when the Mexican merchant undertakes to deal with a merchant of the United States he will know on what basis payment is to be made. Whether or not such an arrangement can be brought about between this country and Mexico, China, Japan, and others, is a great question. It can not be solved in a day or a year. It means long diplomatic negotiations between the different countries. But if it can be brought about all agree it would be of great benefit to the United States.

Now, it is proposed to continue the services of this Commission that is trying to bring about that condition of affairs, and when they have progressed to such a point that they think they have something to report to Congress they will make report, and we shall have the opportunity to determine whether we are willing to commit the Government to any scheme which the Commission may suggest.

Mr. OVERSTREET. Mr. Chairman, I should be glad to be heard a moment on the point of order, directly. I simply wish to call the attention of the Chair to the history of the legislation for which this particular item seeks to make provision by an additional appropriation. In the latter days of December, 1902, or, perhaps, the early days of January, 1903, the Chinese and Mexican Governments——

The CHAIRMAN. The gentleman will suspend until order is restored. The Committee of the Whole will come to order. [A pause.] The gentleman will now proceed.

Mr. OVERSTREET. It is not my purpose, Mr. Chairman, to address myself to the merits of this item, but directly to the question of order which is raised, and in doing so to call the attention of the Chair briefly to the history of the legislation relating to this subject, which, I believe, throws some material light on the solution of the point of order.

In January, 1903, the Mexican and Chinese Governments, through their accredited representatives to the United States, made written request of the President of the United States for some plan through which the three Governments might cooperate in arriving at a system of international exchange for the benefit of the merchants of gold-standard countries dealing with countries which used silver. Those communications were, through the Secretary of State, made to the President, and on the 29th day of January, 1903, by message to Congress, addressed to both Houses thereof, the President called that proposition to the attention of Congress and asked for legislation which would enable him to put in operation some such plan. In his message of January 29 he used this language:

I recommend that the Executive be given sufficient powers to lend the support of the United States in such manner and to such degree as he may deem expedient to the purposes of the two Governments.

Those purposes I briefly referred to. In keeping with that request and recommendation of the Executive, the Congress, on the 3d of March, enacted into law on the sundry civil bill the item giving that power, carrying with it an appropriation of $25,000, to the President.

Acting under that law the President designated a commission of three men, and through his Secretary of State gave instructions to them, and by those instructions they are to-day bound. They have no other power, in law or equity, to bind this Government to any proposition, but under the law under which they are operating must report back through the Executive to the Congress. That Commission has pursued its order of business under those instructions and has made report through the President to the Congress, and at this session the President transmitted that report to the Congress, with a message recommending the further appropriation provided for in this bill.

The CHAIRMAN. Will the gentleman from Indiana permit the Chair to ask him a question?

Mr. OVERSTREET. Certainly.

The CHAIRMAN. The Chair takes it that the gentleman will not contend that this item can be sustained under any other rule than that relating to public works and objects already in progress.

Mr. OVERSTREET. I was going to say, Mr. Chairman——

The CHAIRMAN. Now, does the gentleman consider, under the rulings of the Chair heretofore, that this is a public work or object such as is contemplated by the rule allowing appropriations of this kind?

Mr. OVERSTREET. I certainly believe that it does come within that, and I was just upon the point of stating to the Chair that this very Commission, carrying out the instructions given it through the Secretary of State, is now at work. It is a continuing project, and this item of appropriation is to provide for that continuance by an additional appropriation.

All of this, Mr. Chairman, is a part of the records of this body. Every step of its progress has been made public through the messages of the President, and the last one I refer to is the one in which he refers specifically to this very item, stating in that message the necessity and importance of continuing this project or investigation, because they have only begun in the first investigation by visits to European capitals, and are now progressing with their work at the Japanese and Chinese courts. It comes directly within the purview of the authority of this House, shown by its rules, where a project has been authorized the necessity of its continuance has been demonstrated, and the importance of an additional appropriation made plain in order to complete it. I think the point of order is not well taken, for the very reason referred to by the Chair, that it is a project not yet completed, which has already been authorized and for which a partial provision of expenditure has been made.

Mr. HILL of Connecticut. Mr. Chairman, I do not wish to discuss the merits of the proposition. I am ready to make a proposition to the chairman of the Committee on Appropriations. I distinctly tried to avoid discussing the merits of this bill. The gentlemen on the other side have now taken about half an hour, referring largely to the merits of the bill. The gentleman from Indiana in discussing the point of order has referred to the history of the matter. Well, it depends a good deal on who writes history. I will give a history of this thing entirely different from that which the gentleman from Indiana has given, and will submit the whole facts to the House, if that becomes necessary. I do not want to do it. I am perfectly willing to leave this matter on the point of order right now with the Chairman of the Committee of the Whole, with the understanding that if his decision is against the point of order, I shall have the same amount of time that the gentlemen have already taken to discuss the merits of the proposition on an amendment that I shall offer.

Mr. HEMENWAY. I have no objection to that.

Mr. HILL of Connecticut. Very well; I am ready to submit the point of order without another word.

The CHAIRMAN. The Chair desires to call to the attention of the committee the language of this paragraph against which the point of order has been made; for it seems to the Chair from that language that the appropriation is not in continuation of such a public work or object in progress as the second clause of Rule XXI contemplates:

For expenses of the Commission on International Exchange, appointed under the provisions of the sundry civil act of March 3, 1903, to bring about a fixed relationship between gold-standard and silver-using countries, $100,000.

The paragraph does not state specifically what these expenses are; but in view of the language of the act, which the Chair has before it, creating or authorizing the President to create the Commission referred to, it is reasonable to infer that this appropriation is for the payment of salaries and other expenses of employees of the Government—that is, employees at large, as contradistinguished from employees of the Departments, and duties, too, that are not defined by law. In the opinion of the Chair it is difficult to see how the paragraph can be sustained under the provision of Rule XXI, to which the Chair has referred. That rule reads as follows:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

The question is whether this Commission, the purpose of its creation and the continuation of its duties, is such a public object already in progress as this rule intends. On this question the uniform ruling or holding of previous Chairmen has been that public works or objects already in progress authorizing appropriations not provided for by law had to be of a tangible, substantial nature, like the erection of buildings, construction of roads, etc.

The Chair finds in the Book of Precedents a decision on a very similar state of facts; the decision was made by Mr. Payson, of Illinois, who then occupied the chair:

On April 25, 1890, the House was in Committee of the Whole House on the state of the Union, considering the legislative, executive, and judicial appropriation bill.

The Clerk having read the paragraph relating to salaries in the Interior Department, Mr. Joseph D. Sayers, of Texas, made a point of order that there was a provision for nine members of a Board of Pension Appeals, to be appointed by the Secretary of the Interior, at a salary of $2,000 each, whereas the law constituting the Board provided for three members only.

After debate, on the succeeding day the Chairman gave his ruling. He said that legislation of like character had been adopted on the bill for the past five years, but it appeared from the RECORD that no point of order was urged against the provision. The existing law was found in the Revised Statutes, pages 26 and 27. "Four classes of clerks and three salaries are provided for," continued the Chairman.

After reciting the law providing for a less number on the Board of Pension Appeals, the Chair said:

If this provision is properly in this bill at all, the point of order being raised against it, it must be, in the judgment of the Chair, because it is connected with an "object already in progress" under the statutes of the United States. Now, it is urged in behalf of those opposing the point of order that because an appeal is allowed from the Commissioner of Pensions to the Secretary of the Interior, and because it is a physical impossibility for the Secretary of the Interior to personally perform all of the duties devolving upon the office he holds, and because it has been thought advantageous, in the performance of the duties devolving upon the head of that Department, to render the assistance in the direction indicated by this provision by a board of pension appeals in his office, as a part of the executive force of the office, that therefore it is one of the "objects" contemplated by the rule "as already in progress." The Chair was inclined to think, on the adjournment of the House yesterday, that that point was well taken; but upon consideration, and upon such reflection as the Chair has been able to give to the matter later, the Chair is inclined to think that it can not be so held.

The rule imposes this limitation on the power of the House as to legislation on appropriation bills: That no appropriations shall be made thereby for any expenditure not previously authorized by law, unless such proposed expenditure is in continuation of a public work or an object already in progress; that is, a public work or object previously authorized by statute and not yet completed.

"Public works" contemplated, in the judgment of the Chair, clearly contemplates tangible matters, as buildings, roads, and such other matters as readily suggest themselves.

So the question only remains, Does the expression "objects already in progress" include the duties to be performed by this board during the ensuing year? The Chair held it did not, and sustained the point of order.

This decision has been repeatedly cited and followed in like and similar cases, and since the provision against which the gentleman from Connecticut [Mr. HILL] has made the point of order merely provides for continuing the duties of this Commission for another year, it does not, in the opinion of the Chair, appropriate for the continuation of such an "object already in progress" as the rule contemplates. Therefore the Chair sustains the point of order.

The Clerk read as follows:

To enable the Secretary of State to mark the boundary, and make the surveys incidental thereto, between the Territory of Alaska and the Dominion of Canada in conformity with the award of the Alaskan Boundary Tribunal and existing treaties, $100,000, to remain available until the close of the fiscal year 1905.

Mr. HAY. Mr. Chairman, I raise the point of order on the paragraph which has just been read, on the ground that it is new legislation.

Mr. HEMENWAY. If the Chair is in doubt, I want to be heard upon it.

The CHAIRMAN. To what part of the bill does the gentleman refer?

Mr. HAY. Page 2, beginning of line 9.

The CHAIRMAN. The Chair desires to ask the gentleman from Virginia if he will cite to the Chair the law authorizing this Commission?

Mr. HAY. I can not hear the Chair.

The CHAIRMAN. The Chair desires to know if the gentleman from Virginia can cite to the Chair the law authorizing the Commission appointed for the purpose of fixing the boundary line between Alaska and the United States?

Mr. HAY. No; I can not. I do not know of any such law.

The CHAIRMAN. In the opinion of the Chair, there was some legislative authority for the existence of the Commission that has settled the boundary question between the United States and Great Britain in respect to the boundary between the United States and Alaska.

Mr. HAY. That was a treaty; there was not a law, as I understand it. The point I make is——

Mr. HEMENWAY. I suggest to the Chair that a treaty is about the highest law known.

Mr. HAY. I submit to the Chair that this is entirely new; there is no law heretofore, and it is certainly not in order upon an urgent deficiency bill.

The CHAIRMAN. The Chair is of the opinion that this appropriation, which is to defray the expense of marking the boundary and making the necessary surveys between the Territory of Alaska and the Dominion of Canada, is in continuation of a tangible public work already begun. The Commission was created by authority of law for the purpose of defining that boundary line in accordance with a treaty between the United States and Great Britain, and an appropriation was made for the purpose of ascertaining the exact boundary. Volume 32, page 1138, Statutes at Large, provides for or authorizes the beginning of the work of marking this boundary. The paragraph against which the gentleman has made the point of order is in continuation of that public work which is to mark the boundary line as ascertained by the Commission, and the Chair therefore overrules the point of order.

The Clerk read as follows:

Consular service in Manchuria: For the balance of the fiscal year 1904: Consul-general at Mukden, Manchuria, at the rate of $4,000 per annum; consul at An-tung, Manchuria, at the rate of $4,000 per annum; in all, $3,318.68, or so much thereof as may be necessary.

Mr. HITT. Mr. Chairman, I move to amend page 4, in line 21, by striking out the words "four thousand," before the word "dollars," and insert in lieu thereof the words "three thousand five hundred;" so it will read "$3,500."

The CHAIRMAN. The gentleman from Illinois offers the following amendment, which the Clerk will report.

The Clerk read as follows:

In line 21 strike out the words "four thousand" and insert "three thousand five hundred."

Mr. HEMENWAY. Mr. Chairman, we have no objection to the adoption of the amendment.

Mr. HITT. This is done in order to make the two consulates of similar salary by reducing this one, the Committee on Foreign Affairs having fixed that salary permanently, to begin in the next fiscal year, at $3,500, and it ought not to be $4,000 here.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The Chair calls the attention of the gentleman from Illinois to the fact that the total will have to be changed.

Mr. HEMENWAY. I ask unanimous consent that the total be corrected.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the total be corrected in accordance with the amendment. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

TREASURY DEPARTMENT.

Office of the Secretary: For two clerks of class 4, to be engaged during the remainder of the fiscal year 1904 in revising the customs regulations, $1,496.82, or so much thereof as may be necessary.

Mr. HAY. Mr. Chairman, I raise the point of order on that paragraph that it creates or authorizes the employment of two new clerks.

Mr. HEMENWAY. I do not care to discuss it; but I simply call the attention of the Chair to the fact that I think if the Chair will read section 161 of the Revised Statutes he will see that it authorizes Congress to provide from time to time such number of clerks as they think necessary for the proper conduct of the business of the Government, and from time to time the Chair has held that items of this kind are in order.

The CHAIRMAN. Does the Chair understand that the Revised Statutes provide and authorize the employment of clerks?

Mr. HEMENWAY. Why, certainly; such number of clerks as Congress shall provide from time to time for the public service.

The CHAIRMAN. To what section of the Revised Statutes does the gentleman refer?

Mr. HEMENWAY. I think it is section 161. If we are mistaken about that we will look it up.

Mr. HAY. That objection does not meet the rule of the House. Congress has not provided for these two clerks. It is now providing for the clerks and appropriating for them, and no such expenditure has been previously authorized by law.

The CHAIRMAN. The Chair finds, upon examining the Revised Statutes, that it is section 169 instead of 161 that authorizes this appropriation. The section reads as follows:

The head of a Department is authorized to employ in his Department such number of clerks of the several classes recognized by law and such messengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

Now, in the opinion of the Chair, this statute authorizes the employment of the clerks provided for in this paragraph, against which the gentleman from Virginia has made the point of order. These clerks are described as "clerks of class 4;" and that being one of the classes recognized by law, the point of order is overruled.

Mr. HAY. Mr. Chairman, do I understand the Chair to say that under that ruling the various heads of Departments have the right to employ any number of clerks they choose and that Congress will therefore be obliged to appropriate for them?

The CHAIRMAN. No; that is not the ruling of the Chair. The appropriation must precede the appointment, and the Chair therefore overrules the point of order.

The Clerk, proceeding with the reading of the bill, read as follows:

Office of Auditor for the Post-Office Department: For twenty-five skilled laborers, at the rate of $720 per annum each, for the balance of the fiscal year 1904, $7,500, or so much thereof as may be necessary.

Mr. HAY. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the Committee on Appropriations why the twenty-five skilled laborers are provided for in this bill, whether or not they have been heretofore appropriated for, and why they are needed at this particular time?

Mr. HEMENWAY. I will say to the gentleman from Virginia that the work of the Post-Office Department is behind, and call his attention to page 14 of the hearings. He will see that in order to bring the work up these clerks are provided for. On the legislative bill a number are provided for, quite a number more than are provided for here.

Mr. HAY. They are skilled workmen?

Mr. HEMENWAY. Skilled laborers to count the money orders, of which there are about 500 pounds a day, that come in and have to be sorted out. It is done by skilled laborers much cheaper than it could be done by clerks, and these are provided for in this bill, so that the work can be brought up.

Mr. HAY. I withdraw my pro forma amendment.

The Clerk read as follows:

The President is hereby authorized to establish convenient districts for the collection of revenue from customs, and for that purpose may subdivide any State or Territory within or appurtenant to the United States, or may unite two or more States or Territories within or appurtenant to the United States, or any part or parts thereof, into one district, and may, from time to time, alter said districts: *Provided*, That there shall be no more than 123 collection districts.

Mr. POWERS of Maine. Mr. Chairman, I make the point of order against the paragraph commencing at line 14 on page 13, and ending with line 22, that it is new legislation, and, in my judgment, not very wise legislation, or in the interest of economy. It changes existing law, and not only one existing law, but a good many existing laws.

Mr. JONES of Washington. Mr. Chairman, I would like to ask if the point of order was made to the whole paragraph?

The CHAIRMAN. The Chair understood the gentleman from Maine to make the point of order to that part of the bill on page 13, from line 14 to 22, inclusive.

Mr. POWERS of Maine. Yes; to the whole paragraph.

Mr. HEMENWAY. Mr. Chairman, while I believe the paragraph, if enacted into law, would bring about a great reform, resulting in great saving of money to the Government, I have no doubt that the point of order is well taken.

The CHAIRMAN. The point of order made by the gentleman from Maine is sustained.

Mr. HEMENWAY. Now, Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After line 13 insert the following:

"The President is authorized to inquire and report to Congress, at the beginning of its next session, what reorganization and consolidation of existing districts for the collection of revenue from customs can and should be made, so as to reduce the same to not exceeding 123 in number; whether such reorganization and consolidation would be in the interest of better administration and reduction of expenditures; and if so, in what particulars and to what extent."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. THOMAS of North Carolina. Mr. Chairman, I make the point of order that this proposed amendment is subject to the same rule; that it is a change of existing law and new legislation on an appropriation bill.

Mr. HEMENWAY. I hope the gentleman will not make the point of order, as this only seeks information by which a great reform can be brought about.

Mr. THOMAS of North Carolina. If I should withdraw the point of order, I think it would be renewed by some other gentleman.

Mr. HEMENWAY. It does not in any way bind Congress. It simply secures the information necessary by which the reform can be brought about.

Mr. THOMAS of North Carolina. Mr. Chairman, as I have said, if I withdraw the point of order, I have no doubt it will be renewed. This whole legislation is evidently a sweeping change in existing law.

Mr. HEMENWAY. There is no doubt but that the gentleman's point of order is well taken if he insists upon it; but I urge the fact that this will furnish information by which a great reform can be brought about and large sums of money saved to the Government.

Mr. THOMAS of North Carolina. According to the gentleman's own statement in the RECORD a day or two ago, it will save the Government about $100,000 a year.

Mr. HEMENWAY. About a hundred and thirty-five thousand dollars each year.

Mr. THOMAS of North Carolina. Well, Mr. Chairman, the statement made in the RECORD was that it was about $100,000. Now, this is the initial step toward the abolition of a large number of customs districts from Maine to Florida and along the Pacific coast, and we think that this legislation is too sweeping upon an appropriation bill; that if it is desirable to reorganize, or take steps to do so, by this proposed inquiry, the custom-house districts, there ought to be a separate bill for that purpose.

Mr. GAINES of Tennessee. Mr. Chairman, I have this to say in reply to the chairman of the committee: He says this is a reform that is needed. Where is the proof? The gentleman from New York [Mr. PAYNE] well said the other day that the laws need overhauling; that there ought to be reform in the customs laws. But we should have a full hearing, proof, and a full report; then act.

Mr. HEMENWAY. The Secretary of the Treasury points out the condition, and estimates that $135,000 a year, I think it is, will be paid. It is very clear, if the gentleman will take the report of the Secretary of the Treasury, that in some instances we are paying as high as $600 for the collection of $1. If we can stop that, it will be a great reform.

Mr. GAINES of Tennessee. Notwithstanding the Treasury report, it has not been called to the attention of the House until two days ago, when the gentleman from New York, whose committee—Ways and Means—has had charge of the customs laws, rose in this House and said that they ought to be overhauled.

Now, certainly an appropriation bill is not the place to overhaul general laws. If there should be a reformation in this matter, not simply information, then let it come in by general legislation, as is suggested by the gentleman from North Carolina [Mr. THOMAS] and as the gentleman from New York [Mr. PAYNE] wisely intimated to the distinguished chairman who reports this bill. Instead of that, we are undertaking a reformation here without any information about it. Why was not the particular matter referred to in the report of the Treasury referred to the Ways and Means Committee for that committee to report on it?

Mr. Chairman, I have no seaports in my district. This is simply a question of policy as to whether or not we should rip up our laws here all at once and get to be very frugal and penurious over saving the money in the Treasury on little matters and letting millions and millions of dollars slide through our hands here in appropriation bills, as we have for the last five or six years, without being challenged at all by gentlemen on the other side. I am for this reform, but let it come regularly, fully, completely, so we can see ourselves where we should use the pruning knife.

The CHAIRMAN. Does the gentleman from North Carolina withdraw his point of order?

Mr. THOMAS of North Carolina. Mr. Chairman, I do not think I ought to withdraw it.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Supplies furnished destitute natives of Alaska during an epidemic in 1900: To pay amounts found due by the accounting officers of the Treasury under the provisions of the deficiency act of March 3, 1903, on account of supplies furnished to destitute natives of Alaska during an epidemic in the year 1900, as follows: Alaska Exploration Company, San Francisco, Cal., $33; Alaska Commercial Company, San Francisco, Cal., $25,328.15; North American Transportation and Trading Company, Seattle, Wash., $1,552.25; in all, $26,913.40.

Mr. JONES of Washington. Mr. Chairman, I move to strike out the last word. I wish to ask the chairman of the committee if the information called for in the proposed amendment which he submitted a few moments ago can not be furnished now by the President and officers of the Government.

Mr. HEMENWAY. Why, I suppose a resolution could be passed asking for the information, and I think if the chairman of the proper committee would make the request for information it could be secured in that way.

Mr. JONES of Washington. I should certainly think so.

Mr. COWHERD. Mr. Chairman, I would like to ask the chairman what was the authorization for the expenditure of this money by these companies—whether they were authorized to expend it in any bill; and, if so, how much.

Mr. HEMENWAY. As I remember it, at the last session of Congress the Senate put on an appropriation for these items by amendment; the Departments were instructed to ascertain what, if anything, was due from the Government to these different companies, and to have the amounts reported to Congress.

Mr. COWHERD. Due from the Government to those companies for assistance furnished the Indians? Or was it for supplies, or what was it?

Mr. HEMENWAY. They were furnished in the regular way, following the law, were sent down for payment, but there was some lack of information at the last session of Congress as to whether or not they were accurate.

Mr. COWHERD. What I am getting at and what I want to know is if there is any law now on the statute books providing for the furnishing of supplies to the destitute Indians in Alaska.

Mr. HEMENWAY. I think not. The gentleman will remember that this was the result of the famine which occurred up there some four years ago.

Mr. COWHERD. Mr. Chairman, I think the gentleman will remember—I don't know whether he will or not—that two or three of us attempted—I think when the last sundry civil bill was before the House—to have an amendment made to that bill, providing for an appropriation to furnish supplies to those Indians who at that time the evidence showed were dying by the thousands from famine. If I remember correctly, the gentleman from Indiana [Mr. HEMENWAY]—at least I am certain the chairman of the committee at that time—opposed the appropriation, and we were unable to get the relief we sought. I want to know now whether this is payment for that relief furnished without law?

Mr. HEMENWAY. I think these supplies were furnished prior to that time; but I will state that the chairman of the Committee on Appropriations would still oppose legislation of that kind to permanently appropriate a sum for the care of those Indians. When it becomes absolutely necessary and there is danger of famine, they will be taken care of, and Congress will find a way to ascertain the amounts that ought to be paid. Here is the legislation under which these amounts are paid:

The Secretary of the Treasury is hereby authorized and required to examine and adjust the accounts of the Alaska Commercial Company, the North American Transportation and Trading Company, and the Alaska Exploration Company for supplies furnished and services rendered to the sick, destitute, and starving natives of Alaska during an epidemic of disease over that country in the year 1900.

Now, under that legislation these amounts were ascertained and are now appropriated for, and I have no doubt if there is occasion in the future for aid up there it will be furnished; but I do not believe it to be good policy to put on an appropriation bill an annual sum, so that those people will depend upon receiving so much of Government aid each year of their lives and thereby quit trying to support themselves, because that has been the history of all such things.

Mr. COWHERD. But does the gentleman believe it is better to let these companies furnish such aid as they please in such places as they please rather than that it should be furnished through Government officers, if the Government in the end is to pay for it?

Mr. HEMENWAY. As the gentleman will see, this appropriation is not for deficiencies for the year 1904, but is to take care of an item for 1900. I understand there has been no difficulty of this kind since these supplies were furnished at that time.

Mr. COWHERD. On the contrary, if the gentleman will permit me, I will read from a report showing that 20 per cent of those people have died at that time from epidemic, without any assistance practically having been furnished from the Government.

Mr. HEMENWAY. Well, I do not——

[Here the hammer fell.]

Mr. COWHERD. As long as the gentleman from Indiana [Mr. HEMENWAY] has occupied most of my time, I ask an additional five minutes.

Mr. HEMENWAY. I hope it will be granted.

The CHAIRMAN. Is there objection to allowing the gentleman from Missouri [Mr. COWHERD] five minutes more? The Chair hears none.

Mr. COWHERD. I want to call the attention of the gentleman from Indiana and of the House to the deplorable condition of the native people in certain portions of Alaska. We have gone there in search of gold and have absolutely changed the conditions that surrounded those people. Why, sir, we have passed game laws that have taken away from them their last hope of subsistence. Our game laws have even protected the ferocious bears in the mountainous country at the very time that we are attempting to stock that country with sheep and cattle, and by a Senate report we find those bears are so numerous that explorers have to defend themselves from their attacks. We have passed game laws to protect the bears and have left the Indians to die from starvation. We have passed game laws to protect the walrus, and we have made a closed season that prohibits the Indians from obtaining at the one time that he can obtain it what was formerly for them a great source of food supply. And these people are the only Indians in all the world that never raised their hands against the white man—the only Indians whose houses have been open to every stranger that came knocking at the door.

These are Indians who, the Government officers say, have absolutely deprived their families of the means of subsistence in order to feed the white man. These Indians we are leaving to die there from epidemic and starvation, in order to protect the game of the country for the casual hunter that may come there.

I submit, Mr. Chairman, that this is a blotch upon the legislation of the country—it is a reproach upon the humanity of our legislation that we sit here and permit it. I submit it would be much better for our own race, as well for the Indians, that we should legislate to preserve the Indian rather than to preserve the game, and I remember when this legislation was before the House we were told that the purpose of the law was to preserve the game for the Indian and not from him.

We are spending millions of dollars in introducing civilization, as we say, to the people out yonder in the Philippines, thousands of miles, and getting back little or nothing in return. Here is a piece of territory from which we are drawing millions of dollars in gold production; yet we are refusing year after year to furnish the Government officers there with the pittance which would enable them to take care of this last remnant of a most interesting people—a people, too, who, as reports show, have always extended to us the utmost friendliness and who to-day are perishing from the face of the earth because of the conditions that we have thrown around them.

Let me read you from a report made by a Senate committee that has investigated this subject:

They are hunters by nature and habit, and before the influx of the whites were able and willing to care for themselves, but through the game laws they are wholly deprived of their chief means of maintenance. Why they should be deprived of their immemorial right to hunt at will passes the comprehension of the committee. In a territory so vast as that of Alaska, many sections of which have never been trodden by the foot of a white man, where the mountains are lofty, rugged, inaccessible, and almost impenetrable, it is folly to claim that danger of extermination or even depletion of the amount of valuable game exists at the hands of the natives.

The sea lion and the walrus are protected by their natural habitat from danger of extermination at their hands. The decrease in the number of walrus has come through their systematic slaughter by whalers, who, having failed to secure enough monsters of the deep, at one time sought the walrus for their oil. The Kodiak bear is found on Kodiak Island and on the mainland from the southern coast to the far north. They are protected by innumerable mountains not yet explored. They are large, savage, and so numerous that explorers have to defend themselves against attacks. Why they should be protected against either whites or natives is not apparent, particularly in view of the fact that attempts are being made to stock Kodiak Island with sheep and cattle, 10,000 of the former and 200 of the latter having been placed there during the last two years.

The deplorable condition of these classes is such as to demand other and further relief at the hands of Congress. Their care, oversight, and whatever assistance may be required should be assumed at once. In the opinion of the committee the Secretary of the Interior should be authorized to appoint as many agents as may be found necessary to inquire into their conditions and needs and to administer relief. Appropriations should be made for this purpose.

The business of Alaska is carried on by citizens of the United States. It is claimed by them to now be a "white man's country." To all intents and purposes such is the fact. In every contest for gain the white man has been the gainer. Poverty, extreme and pitiful, prevails among these classes and develops their tendency to disease. Death is ever present at their doors. Justice and humanity alike demand legislation for their relief.

They say in this report—I think this was two or three years ago—that 30 per cent of those people have died from starvation and from an epidemic of measles that appeared amongst them.

We may not be able to remedy this condition of things at the present time; but I am seeking to call the attention of the chairman of this great committee to this important subject that he may investigate it, and that something may be done for those people in the regular appropriation bill—done through the officers of the Government and in proper channels—not by making appropriations to these companies after famine and pestilence have destroyed the race.

[Here the hammer fell.]

Mr. HEMENWAY. I suggest to the gentleman that the Committee on Appropriations has no jurisdiction and has nothing to do with the question. The question belongs to the Committee on Territories, and if the gentleman believes there ought to be legislation it should be presented through the Committee on Territories.

Mr. COWHERD. Has not the Committee on Appropriations in the sundry civil bill carried an item——

Mr. HEMENWAY. We have carried an item for reindeer—I think an item of $25,000—that has resulted in great benefit to those people; but the gentleman knows that the minute you go to issuing rations to the Indians in Alaska or in the United States or anywhere else you make paupers of them. They immediately

begin to wait for the rations to come around in place of going ahead to try to make their own living. In addition to that they have a local government recently provided by Congress, by which they collect their own taxes as you collect yours in Missouri, and they ought to take care of their poor people through their local funds. But in any event the Committee on Appropriations has nothing whatever to do with this item, and it belongs to the Committee on Territories.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Owners of British steamship Mogul: To pay the amount found due by the accounting officers of the Treasury, under the provisions of the deficiency act of March 3, 1903, to Gallatly, Hankey & Co., of London, England, owners of the British steamship Mogul, for damages by reason of the collision between said steamship and the United States transport Warren, in Manila Bay, December 30, 1900, $15,303.07.

Mr. FITZGERALD. Mr. Chairman, I desire to reserve the point of order under the item just read.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FITZGERALD. That it is legislation.

The CHAIRMAN. The Chair will say that on page 1048 of the Statutes at Large, volume 32, is found the following provision:

That the Secretary of War be, and he is hereby, authorized and directed to examine the claim of Messrs. Gallatly, Hankey & Co., of London, England, owners of the British steamship Mogul, for damages alleged to be due said owners by reason of the collision between said steamship Mogul and the United States transport Warren in Manila Bay on December 30, 1900, and determine what damages, if any, are due thereby to said owners of said steamship Mogul, and to certify the amount of such damages, if any are found to be due, to the Secretary of the Treasury; and the Secretary of the Treasury is hereby authorized and directed to report the same to Congress for its action.

Thus it has been held to be a special auditing authorized by law, and the appropriation of money for the purpose of paying the amount found to be due is in order under the Rules of the House. The Chair therefore overrules the point of order.

Mr. FITZGERALD. I submit that it is no deficiency in any sense, but that the Secretary was merely authorized to ascertain and report upon a claim. This is an item to pay a specific sum.

The CHAIRMAN. In reply to the gentleman from New York the Chair will read from the Manual:

It is in order to provide on an appropriation bill, as a deficiency, for the payment of an account audited under authority of law.

This account was audited under express authority of law, and is clearly in order.

Mr. FITZGERALD. Mr. Chairman, then I move to strike out the item.

The CHAIRMAN. The gentleman from New York moves to strike out the paragraph just read.

Mr. FITZGERALD. I do that, Mr. Chairman, for this reason: There have been a number of claims of this character made against the Government of the United States, some by citizens of the United States and some by citizens of other nations, and it has been the unvarying practice to compel the claimants to submit their claims to the Committee on Claims of this House, so that by legislation some court might pass upon the question of negligence, and if negligence on the part of Government officials was found, then to have the court pass upon the question of damages. Here we simply have some executive officer of one of the Departments reporting to Congress that in the opinion of that Department this collision in Manila Bay was due to the negligence of servants of the United States, and that the damage occasioned by that collision amounted to so much money.

It seems to me that there should be a uniform practice in these cases. I recollect well that a constituent of mine was compelled to submit its claim, arising out of a collision between one of the war vessels of the United States and a vessel having passengers on board, in the East River, in New York, to the district court of the United States sitting as a court of admiralty; and I say that if the Government is to recognize a claim of this sort at all, that is the proper way to do it. I am utterly opposed to giving to executive officers either the powers or duties that properly devolve upon the Congress, or to constitute them as courts to pass upon claims of this character, and I believe that this claimant, like all other claimants, should be relegated to the remedy given to citizens of the United States and citizens of other countries in the past.

The CHAIRMAN. The question is on the amendment of the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Refund of duties to North American Transportation and Trading Company: To refund to the North American Transportation and Trading Company, of Seattle, Wash., the sum of $1,075, being the amount of duties unlawfully collected from said company on account of cost of repairs of the barge New York, it appearing that said vessel was not enrolled and licensed under the laws of the United States within the meaning of section 3114 of the Revised Statutes.

Mr. OLMSTED. Reserving the point of order, I would like to ask the chairman of the Committee on Appropriations why this appropriation should be made in this bill and this claim not sent, like other claims of like character, to the Committee on Claims for proper action?

Mr. HEMENWAY. It is to refund the amount found due this company; and of course it does not go to the Committee on Claims, because the amount has been ascertained, and it is agreed by the Government that this amount of money was collected from this company in violation of law.

Mr. OLMSTED. Under what particular law and by what officer has that finding of fact been made?

Mr. HEMENWAY. The Secretary of the Treasury is the officer.

Mr. OLMSTED. Where has the Secretary reported it?

Mr. HEMENWAY. He reports it down in a document which comes to Congress here, recommending that the amount be appropriated.

Mr. OLMSTED. There is nothing in the paragraph that indicates that the amount has been passed upon by any officer of the Government.

Mr. HEMENWAY. This is an account that has been passed on. It has been audited by the Secretary of the Treasury and certified down for appropriation. I can find the document after a while.

Mr. OLMSTED. Then, assuming that to be the case, there is hardly a Member upon this floor who has not constituents who have some equally just claim upon the Government, but they can not get them in these general appropriation bills.

Mr. HEMENWAY. This class of claims is always paid in appropriation bills. Here it is:

To refund to the North American Transportation and Trading Company, of Seattle, Wash., the sum of $1,075, being the amount of duties unlawfully collected from said company on account of cost of repairs of the barge New York, it appearing that said vessel was not enrolled and licensed under the laws of the United States within the meaning of section 3114 of the Revised Statutes.

This is one of the class of claims that is always paid in this bill.

Mr. OLMSTED. What did you read from?

Mr. HEMENWAY. I read from the estimates submitted by the Secretary of the Treasury.

Mr. FITZGERALD. It took me three years or more to get through a similar claim for a constituent, where the duties had been paid and where the United States Supreme Court decided they were illegally collected; and I could not get that claim put in an appropriation bill.

Mr. HEMENWAY. If the gentleman had got his claim properly allowed and certified down to us for an appropriation, it would have been carried in this bill. Nearly every bill of this kind carries quite a number of these claims.

Mr. FITZGERALD. This went through in a private bill, and it had superior merit or it would not have gone through.

Mr. HEMENWAY. I do not know anything of the form under which the gentleman's claim comes, but in these the Secretary of the Treasury certifies the ascertained amount illegally collected from this company, and he certifies the amount down for appropriation.

Mr. OLMSTED. Mr. Chairman, upon the statement of the gentleman from Indiana, that this account has been adjudicated by the Treasury Department and payment recommended by the Department, I will make no point of order.

The Clerk read as follows:

Payment to the Pacific Coast Steamship Company: To pay the account of the Pacific Coast Steamship Company for damages to their steamer Ramona, caused by collision with the United States revenue steamer McCulloch off Martinez, Cal., April 28, 1903, $50.13.

Mr. OLMSTED. Mr. Chairman, I make the point of order against that paragraph. I do not think that this claim, which is nothing more than a claim upon the Government, is of any higher class than thousands of claims pending before Congress, and I do not think we ought to pay the claim of a great steamship company while we are not ready to pay these smaller claimants whose claims are just as good. I make the point of order that that paragraph is in violation of clause 2 of Rule XXI.

Mr. HEMENWAY. If the Chair is in doubt that this is authorized by law——

The CHAIRMAN. If it has been adjudicated by the Department the Chair has no doubt that the item is under authority of law.

Mr. HEMENWAY. The law authorizes it and provides that in cases of this kind a board shall be convened to investigate the matter. Under that law the board has been convened. This item has been investigated. It found that the United States was at fault, that the United States revenue cutter *McCulloch* was at fault in this collision, and the board takes up the matter under the law and assesses the damage and reports it to Congress, and Congress appropriates under the law.

The CHAIRMAN. Has this claim been adjudicated under that law?

Mr. HEMENWAY. It has been adjudicated. The board convened and certified it for appropriation.

Mr. OLMSTED. I would like to ask the chairman of the committee—the gentleman from Indiana—in what better position does this claim stand than the claims of my constituents for damages sustained at the hands of the Army when they occupied Fort Meade, near Harrisburg? The claims were passed upon by the War Department and recommended to Congress, but we had to get special authority to pay them.

If my friend can point me to any authority of law for the payment of this claim I will be glad to withdraw the point of order.

Mr. HEMENWAY. The authority is this: That the statutes authorize and direct and require, in every case of collision, that this board be convened, that an investigation be held, that after the investigation has been held that they certify the amount of damages, if any, and whether or not the United States is liable; and when that is done and the amount fixed and audited it goes through the proper Department and is certified down here under the law for appropriation; the difference being in this class of claims and the class of claims suggested by the gentleman that there is no statute for that class of claims suggested by the gentleman authorizing this procedure, while in this case there is a statute authorizing and directing how these amounts shall be ascertained.

Mr. OLMSTED. Well, I will say that in the case to which I referred there was especial authority of law by statute for an investigation by the War Department and an ascertainment of the amount justly due by the Government to those parties, but after that was had there had to be authorization of law before the money could be appropriated to pay them the money. Some of them have not been paid yet.

Mr. MAHON. Will the gentleman allow me a question?

Mr. OLMSTED. Certainly.

Mr. MAHON. Under the general law all claims which are war claims and are adjudicated by the Treasury Department are, under the rule, sent to the Committee on War Claims, where they are appropriated for and paid. This is not a claim for damages in time of war. This action probably happened in time of peace, and therefore it came properly to the Committee on Appropriations. I simply suggest this to the gentleman who complains that he did not get this kind of a bill passed to introduce the legislation and you will know next time what corner to turn to get it acted upon.

Mr. OLMSTED. I was not finding any fault with the Committee on War Claims. The Camp Meade claims, so far as paid, were paid upon a bill coming through the Committee on War Claims, a regular bill for the payment of the claims; but this kind of a claim would go before the Committee on Claims—not War Claims, but Claims—and there are plenty of bills there now. I had one myself reported from that committee last year for the refund of money for revenue stamps collected improperly from a dealer in tobacco, but it required special authority of Congress to repay that money, and unless the gentleman from Indiana can point to some statute authorizing this appropriation I shall insist upon my point of order. If he shows me the statute I shall be glad to withdraw it, as of course it can not stand.

Mr. HEMENWAY. Does the gentleman contend that this is not authorized by law? I think I can find the statute in a minute or two.

The CHAIRMAN. The Chair understands the gentleman from Indiana to say that the adjudication of these claims has been by authority of law.

Mr. HEMENWAY. There is no doubt about it.

The CHAIRMAN (continuing). And it has been held repeatedly that the adjudication authorizes an appropriation for the payment of the amount adjudicated or found to be due parties in those special cases. The Chair therefore overrules the point of order.

Mr. FITZGERALD. Mr. Chairman, I suggest that there is no law authorizing this. The item has been audited under a special provision of the deficiency act last year and there is no general law authorizing the auditing of these claims.

The CHAIRMAN. The Chair understood the gentleman from Indiana to read the law——

Mr. FITZGERALD. I suggest that the gentleman from Indiana did not read any law. He stated on general authority what he believes the law to be, but there is no such provision of law upon the books.

Mr. HEMENWAY. Does the gentleman make the statement that there is no such general statute authorizing this?

Mr. FITZGERALD. Unquestionably.

Mr. HEMENWAY. Well, we will find it.

Mr. MAHON. Regular order.

The Clerk read as follows:

Centerville, Iowa, post-office: For completion of building under present limit, $16,250.

Mr. SULZER. Mr. Chairman, I desire to inquire from the chairman of the Committee on Appropriations why this bill does not carry an appropriation for the purchase of the site for the new post-office in the city of New York, as heretofore recommended by the commission appointed for that purpose?

Mr. HEMENWAY. No recommendation has come to the committee coming from a Department.

Mr. SULZER. As I understand it, Congress heretofore passed a law for a commission to select a suitable site for the New York City post-office—a commission consisting of the Postmaster-General, the Secretary of the Treasury, and the Attorney-General. And the law provided that they should select the location in New York City, and make a report to Congress as to the cost of the same, with addititional specified particulars. That report and the recommendations of the commission, as I understand it, have been made to the Congress and are now before your committee.

Mr. HEMENWAY. There is nothing on the subject before the Committee on Appropriations.

Mr. SULZER. I will read the law. It was passed June 6, 1902, and is as follows:

That a commission hereby created, consisting of the Secretary of the Treasury, the Postmaster-General, and the Attorney-General of the United States, be, and is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a suitable site in the city of New York, borough of Manhattan, and State of New York, upon which to erect a fireproof building for the use and accommodation of the United States post-office in said city: *Provided*, That the site selected shall be bounded on each side by a street. When said commission has acquired a site in said city, as herein provided, the commission shall make a report to Congress, stating the location, dimensions, and cost of the same, and recommend to Congress the character and size of a building that should be erected upon said site and state the probable cost of such a building, including fireproof vaults, heating and ventilating apparatus, and approaches.

Mr. Chairman, the report of the commission was duly made to the Congress and is now before the House. The site was selected, and it will cost about $2,000,000. This bill should appropriate the money. I would like to ask the gentleman from Indiana [Mr. HEMENWAY] if he has any objection now to my offering an amendment that the sum recommended by the commission, $2,000,000, to purchase this site be incorporated in this bill?

Mr. HEMENWAY. I have, and I will make the point of order against it, because the Committee on Appropriations confines itself to the estimates received from the different Departments of the Government.

Mr. SULZER. Well, this is an estimate; this is in the nature of a contract to purchase the site, and the estimates are made by the Secretaries of three different Departments of the Government.

Mr. HEMENWAY. I do not think the gentleman understands me. There has been no estimate coming to the Committee on Appropriations for the item which the gentleman has mentioned.

Mr. SULZER. But, sir, a commission has been duly appointed under the statutes of Congress, and the commission has recommended an appropriation of $2,000,000 for this site. What better recommendation do you want than that? The money to buy the site must be appropriated by Congress, and nothing more can be done until the money is appropriated.

Mr. HEMENWAY. There has been no recommendation sent to the Committee on Appropriations with regard to the item at all and no one has appeared before the committee to advocate the placing of the item in the bill, and I would say to the gentleman, if any such person had appeared, we would not have heard him until it had been recommended by a Department.

Mr. SULZER. Well, then, I now ask the gentleman if he will raise a point of order against an amendment to this bill that the sum of $2,000,000 be appropriated for the purpose of acquiring the site in the city of New York for a new post-office?

Mr. HEMENWAY. The chairman of the Committee on Appropriations would feel it to be his duty to make the point of order against it.

Mr. SULZER. Then I will ask the Chair how the Chair will rule on that point? Will the Chairman sustain the point of order?

The CHAIRMAN (Mr. OLMSTED). The Chair will meet that when it arises.

Mr. SULZER. Then I move, Mr. Chairman, to amend the bill, after line 17, on page 18, by inserting:

That the sum of $2,000,000, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to purchase the site in the city of New York heretofore recommended by the commission for the new post-office.

And I hope the gentleman from Indiana will not make a point of order against it. This is the urgent deficiency bill, and I know of no appropriation more urgently demanded than this appropriation to purchase the site for the new post-office in the city of New York. The money should have been appropriated by the last Congress. It must be appropriated by this Congress.

Mr. HEMENWAY. I make the point of order, Mr. Chairman, that it is not authorized by law.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 18, after line 17, add: "That the sum of $2,000,000 or so much thereof as may be necessary be, and the same is hereby, appropriated, out of any

money in the Treasury not otherwise appropriated, to purchase the site in the city of New York heretofore recommended by the commission for the new post-office.

Mr. HEMENWAY. The point of order, Mr. Chairman, is that it is not authorized by law.

Mr. SULZER. Mr. Chairman, I want to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. HEMENWAY. I suggest, if the gentleman from New York will permit, that these items for public buildings as a rule are all carried in the sundry civil bill. It may be that the item the gentleman refers to will come in in the sundry civil appropriation bill. The items carried here are where there was not a sufficient amount appropriated for the construction of public buildings that were in the course of construction during the last Congress.

Mr. SULZER. Mr. Chairman, if I understand the gentleman from Indiana correctly, the point of order he makes is simply that this is not the appropriate bill to carry this appropriation: that my amendment should be offered to the sundry civil bill when that bill comes up in this House.

Mr. HEMENWAY. No; I make the point of order that it was not authorized by law. I will be candid with the gentleman. I am not familiar with the law that the gentleman refers to.

Mr. SULZER. Mr. Chairman, under the law of 1902, passed by Congress, a commission consisting of the Postmaster-General, the Secretary of the Treasury, and the Attorney-General was appointed to select and locate a site in the city of New York for a new post-office. That commission met, organized, went to New York City, investigated the matter, finally selected a site, and made a report to Congress recommending the appropriation of $2,000,000 to purchase this site. That report is a public document and is before this House. Most of the Members of the House are familiar with the law appointing this commission, and it seems to me the point of order is not well taken and it should not be sustained.

It seems to me that where there is a law to acquire the site the appropriation ought to be made, otherwise the site can not be acquired. The commission recommended the appropriation of $2,000,000. I think the objections of the gentleman from Indiana are untenable. I think it has been held by the present Chairman of the committee and other Chairmen of the Committee of the Whole House that where a law has been passed appointing a commission to acquire a site for a public building and they enter into a contract to purchase the site it is incumbent upon the House of Representatives to appropriate the money. It is immaterial whether the appropriation is carried in the urgent deficiency bill or in the sundry civil bill. The situation in New York City regarding this post-office is to-day a shame—a crying shame.

The present post-office building in the city of New York is a disgrace to the Federal Government. It is old, damp, worn out, overcrowded, and dilapidated. It is totally unfit to properly transact its immense postal business. It was built many years ago, and its usefulness is now practically a thing of the past. New York City to-day is more in need of better post-office facilities than any other city in the United States. This old post-office building away down town is wholly inadequate, and has been so for years, to properly handle and distribute the vast amount of mail that comes in and goes out of the great metropolis. It is damp and dirty and dingy. It is cramped and clammy and unhealthy. The Government employees there, compelled to work underground, are daily endangering their health and risking their lives, and are so crowded for lack of space and necessary room that it is impossible to expedite the distribution of important mail matter; and this deplorable situation affects, I say, not only the people in the city of New York, but the people all over the country, because it is well known that New York City is our greatest postal distributer.

Mr. Chairman, the post-office of New York City pays the Government an immense revenue profit every year; more, I believe, than any other three cities in the land, and more than many States of the Union. The net annual revenue from the New York City post-office is about $6,000,000, and increasing more and more every year. With these apparent facts staring us in the face, it is a shame, in my judgment, that for this reason or that excuse it has been absolutely impossible for the people of New York City, or their representatives in Congress, to get Congress to remedy the postal evils in New York City and give the people there a post-office that will reflect credit on the Federal Government and facilitate the distribution of the mails.

It is well known, Mr. Chairman, to those Members familiar with this question that after several years of weary effort and arduous struggle we finally succeeded in getting the Committee on Public Buildings and Grounds of this House to pass a law merely appointing a commission composed of the Postmaster-General, the Secretary of the Treasury, and the Attorney-General to go to New York City and select a suitable site for the new post-office building. No appropriation to pay for the site was made in this law, because we were told such a proposition was unheard of and contrary to precedent, and that no appropriation was ever made by Congress until the site was selected, and that just so soon as the site was selected Congress would forthwith appropriate all necessary money to pay for the same and to begin the construction of the building.

That is all, Mr. Chairman, I care to say at this time. I trust you will overrule the point of order. It should be immaterial what bill carries this appropriation so long as it is made—and it ought to be made now.

The CHAIRMAN (Mr. OLMSTED). Accepting the statement of the gentleman from New York as to the condition of the law, the Chair is of the opinion that it is not such as would authorize this appropriation. The mere appointment of a board for the purpose of selecting a site, but with no authority to purchase the site when selected, does not constitute such a beginning of a public work that the appropriation involved in this proposed amendment can be considered as in continuation of an appropriation for a public work; but, in any event, such an appropriation would be in order, if at all, upon the sundry civil bill, and not upon this, which is an urgent deficiency bill to supply deficiencies in the appropriations for the fiscal year ending June 30, 1904, and for prior years. The Chair, therefore, sustains the point of order.

Mr. SULZER. Very well, Mr. Chairman, I shall offer the amendment to the sundry civil bill, and if it is objected to I hope you will be in the chair to rule it in order on that bill.

The Clerk, proceeding with the reading of the bill, read as follows:

Heating apparatus for public buildings: For heating, hoisting, and ventilating apparatus, $25,000.

Mr. LIND. Mr. Chairman, I desire to offer an amendment to the paragraph which has just been read.

The Clerk read as follows:

At the end of line 9, on page 20, amend by adding "providing so much of this appropriation as shall be necessary shall be devoted to the construction and installation of necessary elevators in the public building at Minneapolis, Minn."

Mr. HEMENWAY. Mr. Chairman, I suggest to the gentleman from Minnesota that that item of $25,000 was placed in the bill for the purpose of constructing an elevator in a public building in the city of Minneapolis; that the Chief Architect stated to the committee that if this appropriation was made they could immediately commence the construction. It has not been the policy of the House to appropriate specifically for different elevators in different buildings, and I believe it would be bad policy to commence now. For that reason I am opposed to the amendment offered by the gentleman from Minnesota, and I hope he will not insist upon his amendment.

Mr. LIND. Mr. Chairman, if this were not an exceptional case I would very gladly accept the explanation of the chairman, but the situation is very peculiar. A contract is now being executed for the addition of two upper stories to the post-office building at Minneapolis—which is confessedly inadequate—and unless this appropriation is made at this time, it will necessitate the making of two jobs of the improvements now in progress, and that are absolutely essential to enable the postmaster to carry on the Government business. The architect says that unless this designation is had he will not feel justified in spending this amount of money designed for Minneapolis at that place. If I did not feel that this were an exceptional case, and that the point of order is not well taken as applied to this case——

Mr. HEMENWAY. Let me say to the gentleman that no point of order has been made.

Mr. LIND. Well, then, I ask for a vote on my amendment.

Mr. HEMENWAY. Before voting, I want to insist that this amendment ought to be defeated. If the gentleman from Minnesota is entitled to have placed on the bill a provision directing that a certain portion of this money shall be appropriated for Minneapolis, then Baltimore and eight or ten other cities of the United States which are claiming that they ought to have elevators in public buildings are entitled to a like provision. Before the committee we were fair with the gentleman from Minnesota [Mr. LIND], and we suggested the importance of this work to the architect in charge. He advised it and it appears in the hearings that if the additional sum of $25,000 be appropriated work could begin immediately at the Minneapolis building, and I insist that this amendment—which is in violation of the rule heretofore adopted, namely, not to appropriate specifically for this, that, or the other elevator, but leave it with the architect to take the lump sum and put elevators where they are most needed—should not prevail. The architect agrees that an elevator is needed in this building, and I do not believe we ought to fix a precedent here which will afterwards come back to embarrass the House, and I hope the amendment will be defeated.

Mr. LIND. Will the chairman of the committee permit a question?

Mr. HEMENWAY. Certainly.

Mr. LIND. Does the chairman have the assurance and the abiding confidence that this money will be disposed of just as he has indicated, if appropriated?

Mr. HEMENWAY. I have no doubt it will. The architect before the committee, in reply to the question as to whether or not if this money were appropriated work could begin on this elevator, said it could begin immediately.

Mr. LIND. And it was made specifically for this purpose, to meet the emergency at Minneapolis?

Mr. HEMENWAY. That was the object of the committee increasing the appropriation to $25,000.

Mr. LIND. Under those circumstances, Mr. Chairman, I withdraw the amendment.

The Clerk read as follows:

NAVY DEPARTMENT—OFFICE OF THE SECRETARY.

Salaries, office of Secretary of the Navy: For one clerk at the rate of $2,250 per annum for the balance of the fiscal year 1904, $933.10, or so much thereof as may be necessary.

Mr. HAY. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee what the occasion is for the appointment of this $2,250 clerk?

Mr. HEMENWAY. I will say that an appropriation for the appointment of a new clerk is carried in the legislative bill for the next year, and at the urgent request of the Secretary of the Navy it was put in the deficiency bill so that he could have the use of the clerk right away.

Mr. HAY. It is an increase, however, of clerks, is it not?

Mr. HEMENWAY. Yes. The Secretary of the Navy wanted an increase of help and wanted it right away, so we gave it to him on the deficiency bill as well as on the legislative.

The Clerk read as follows:

NAVAL ESTABLISHMENT.

Emergency fund, Navy Department: To meet unforeseen contingencies for the maintenance of the Navy constantly arising, to be expended at the discretion of the President, for the fiscal year 1904, $10,000.

Mr. HAY. Mr. Chairman, I would like to ask the chairman of the committee what the need is for this fund?

Mr. HEMENWAY. Well, it is a fund that has been provided for many years.

Mr. HAY. Is it not added to what has already been provided?

Mr. HEMENWAY. This item here of $10,000 is of course additional. It is a deficiency.

Mr. HAY. What extraordinary expenses have occurred?

Mr. HEMENWAY. I will read what the Secretary says:

The "emergency fund" is an outgrowth of the war with Spain. It is a constantly decreasing fund, and in a sense it is a contingent fund with the additional security that exists under it, requiring the approval of the President. There are constantly large contingencies arising in the Navy all over the world. We have expended the whole of our emergency fund for this year, and it is very clear that we shall have other emergencies before the 1st of July, and it would be a very great convenience, arising almost to a necessity, that we should have this increase in our emergency fund.

Mr. HAY. How much was the fund for the year?

Mr. RIXEY. Twenty-five thousand dollars.

Mr. HEMENWAY. Twenty-five thousand dollars.

Mr. HAY. So that this fund is by this appropriation increased to $35,000?

Mr. HEMENWAY. Just for this year.

Mr. RIXEY. I would like to state to the chairman that, instead of its being a decreasing fund, it is an increasing fund, because the Secretary in his statement before the committee——

Mr. HEMENWAY. Oh, no. I will call the attention of the gentleman to the fact that in 1903 there was appropriated for this fund $100,000, and in 1904 we reduced the amount to $25,000. Adding this $10,000 will make it only $35,000, as against $100,000 in 1903.

Mr. RIXEY. I merely want to call attention to the fact that the Secretary was before the committee this week and asked to have that fund increased to $50,000.

Mr. HEMENWAY. Then it would still be a great reduction from the fund appropriated in 1903.

Mr. RIXEY. The beginning of this fund was with the Spanish war, I would state to the chairman, and if he will look at the debates on the naval bill during the last session of Congress I think he will find the statement made that this emergency fund should go out of the bill at the present time.

Mr. HEMENWAY. Of course, following the suggestion of the Secretary of the Navy, this item is placed in the bill. Any one thinking that the item is not necessary could move to strike it out. I have great faith in the judgment of the Secretary of the Navy, and he states that the sum is necessary.

Mr. RIXEY. I also have great confidence in the opinion of the Secretary of the Navy. That is the only reason I do not move to strike out the paragraph.

The Clerk read as follows:

Bringing home remains of officers and men, Navy and Marine Corps, who die abroad: To enable the Secretary of the Navy, in his discretion, to cause to be transported to their homes the remains of officers and enlisted men of the Navy and Marine Corps who die or are killed in action, ashore or afloat, outside of the continental limits of the United States, $15,000: *Provided*, That the sum herein appropriated shall be available for transportation of the remains of officers and men who have died or who have been killed while on duty at any time since April 21, 1898, and shall be available until used, and applicable to past as well as future obligations.

Mr. RIXEY. I suggest to the chairman of the Committee on Appropriations whether it would not be proper to enlarge the provisions of this paragraph so as to apply not only to the remains of officers and enlisted men, but to those of civil employees who have been sent from this country to the Philippine Islands. In support of that suggestion I will say that the naval bill for this year——

Mr. HEMENWAY. I think that on the sundry civil appropriation bill we provide for bringing home the bodies of civil employees. I think the provision in that bill is sufficient.

Mr. RIXEY. I was about to state that in the appropriation bill for the naval establishment, which is now being considered in the committee, provision is made for 1905 for bringing home the remains of civil employees as well as those of officers and men.

Mr. HEMENWAY. I think, then, the matter is fully covered, because the item on the sundry civil bill provides for bringing home the remains of civil employees.

The Clerk read as follows:

To pay amounts found due by the accounting officers of the Treasury on account of the appropriation for "Bringing home remains of officers and men, Navy and Marine Corps, who die abroad," $237.08.

Mr. HEMENWAY. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert after line 10, on page 30, the following:

"To reimburse to owner the expense of repairing damages sustained by tug Hustler, run down from astern and sunk by U. S. S. Yankton, $5,301.81."

The amendment was agreed to.

The Clerk read as follows:

Naval Training Station, Rhode Island: For installation of ventilating system, $9,098.68; for installation of urinals, $700; for construction of frame building for detention of recruits and moving of sterilizing plant, $4,500; in all, $14,298.68.

Mr. RIXEY. I make a point of order against that paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. RIXEY. This provides for new work at the Naval Training Station, Rhode Island. It provides in part for "installation of ventilating system," for "construction of frame building for detention of recruits," etc. It seems to me that matters of this kind belong properly to the Committee on Naval Affairs.

Mr. HEMENWAY. As I understand, this item is for work already done and not paid for. In the hearings the Secretary of the Navy said:

The Naval Training Station in Rhode Island arises out of this condition: We have a training station on Coasters Island, where apprentice boys are taken when they first enlist and kept for a period of six months before they are sent to sea. An epidemic of pneumonia and diseases of that character broke out. The conditions became very serious indeed. We had to take a part of our boys away, and it became a matter of humanity to remove the cause as quickly as possible.

I had a medical board appointed and they reported that the ventilation system, the urinals, and the frame building for the detention of recruits should be constructed, at a cost altogether of $14,298. We did it from the general appropriation for the maintenance of that station, which, as I recall it, is $55,000. That, of course, was an unexpected burden upon that appropriation, which is now almost exhausted, and therefore I ask that this special appropriation may be provided, leaving our general appropriation to do its work in a normal way.

Mr. RIXEY. It seems to me that the language of the provision is unfortunate, but the explanation, I think, brings the matter within the rules. I withdraw the point of order.

The Clerk read as follows:

Navy-yard, Boston, Mass.: For extensions and modifications, yards and docks power plant, $188,700.

Mr. RIXEY. I ask the chairman of the committee whether this is not an entirely new item, not simply a deficiency?

Mr. HEMENWAY. The Secretary of the Navy said in regard to this item:

The item in regard to Boston was submitted to me originally for the regular bill. I said that it should go into the urgent deficiency bill. It arose out of this condition: The new dry dock at Boston will be completed in the spring. It is a very important dry dock for us. We are just hanging by one button on dry-dock facilities and they may break down at any moment. We want this dock for use in the spring. The power house for which this is designed is about completed. There is installed in it a lot of plant that was constructed when electric power was in its infancy. This should be put in that new power house at the earliest date, not only for lighting the yard and lighting the ships that are under repair, but for power for the operation of this new dock. I consider it as important an item as there is in the bill.

Mr. RIXEY. The Committee on Naval Affairs had under consideration the advisability of consolidating these plants, and it does seem to me that this matter ought to be considered by that committee and reported upon by it. If the plants should be consolidated, the impression is that the work of consolidation will go to the

Bureau of Yards and Docks. But the naval bill has not been reported by the committee, and I think this provision ought to wait until that bill shall be reported. I therefore make a point of order against the paragraph.

Mr. HEMENWAY. This matter having been discussed, I think the point of order comes too late. Of course I have no feeling about the matter one way or the other, except that I am assured by the statement of the Secretary of the Navy that this is a deficiency. The appropriation for work at that navy-yard has been exhausted, and the Secretary says that he considers this one of the most important items in the bill. He gives his reasons that, as he puts it, they are hanging there on one button; that the dry-dock facilities may break down at any moment, and they want this dock for use in the spring.

Of course if they have it for use in the spring they must get the money on this bill. The money provided on the bill reported from the gentleman's committee would not be available until July 1; so if the Secretary has this dry dock for use in the spring he must have this appropriation now. I do not think it is subject to a point of order, but——

Mr. RIXEY. The chairman of the committee is entirely familiar with the fact that different committees frequently make portions of appropriations immediately available.

Mr. HEMENWAY. That provision on an appropriation bill is subject to a point of order.

Mr. RIXEY. It is very frequently done. If this is a matter of importance it could be done in that way.

Mr. HEMENWAY. That is not the proper way to legislate. It is subject to a point of order to make an item immediately available, and that is further evidence that the item is in order on this bill. I do not undertake to say that I know as much about the necessity for it as the gentleman himself. I only have before me the information given by the Secretary of the Navy, in which he states that it is very important; that the Navy Department, as he puts it, is now hanging on one button; their dry dock is liable to break down.

The CHAIRMAN. Does the gentleman from Indiana insist on his point of order?

Mr. HEMENWAY. The point of order, I understood, was not made.

Mr. RIXEY. I made the point of order.

The CHAIRMAN. The Chair understood the gentleman from Virginia to make the point of order, but he understood the gentleman from Indiana to make the point that it came too late.

Mr. HEMENWAY. Oh, yes; we had been discussing it for ten minutes.

The CHAIRMAN. The Chair then sustains the point of order made by the gentleman from Indiana, that the point made by the gentleman from Virginia, not having been made until after there had been debate, came too late.

Mr. HEMENWAY. I ask the Clerk to read.

The Clerk read as follows:

UNDER THE SECRETARY OF THE NAVY.

For necessary expenditures incident to the occupation and utilization of the naval station at Guantanamo, Cuba, to be used for such purposes as the Secretary of the Navy may direct, $200,000.

Mr. RIXEY. I should like to have some explanation of the paragraph at the foot of page 33, the sum of $200,000. I should like to know what that is to be expended for. In order that I may be in time. I reserve the point of order.

Mr. HEMENWAY. On page 60 I quote from the statement of Secretary Moody, in the hearing before the committee:

NAVAL STATION, GUANTANAMO, CUBA.

The next item is Guantanamo, which I consider is of the highest importance.

Mr. HEMENWAY. Give us fully the reason?

Secretary MOODY. I will give it to you as briefly as I can. As you know, the law which has been called the Platt amendment provided that Cuba should sell or lease to the United States land necessary for coaling or naval stations at certain specific points to be agreed upon between the President of the United States and the Government of Cuba. A year ago the coming February an agreement was entered into between the two Governments, specifying the points where the naval stations should be, one at Bahia Honda, which is about 60 miles west of Habana, and the other at Guantanamo, which is about 40 miles west of Santiago.

It is not the purpose of the Department to do anything at the present time at Bahia Honda, but at Guantanamo it is proposed to build up a naval station of the first class. Our interests in the West Indies now are so important that nothing will serve them except the establishment of such a station. We have made a subsequent agreement with Cuba which provides the rental which we shall pay for the land which has been leased to us at Guantanamo. Those lands contain about 18,000 acres. They are to be bought by the United States Government, and the estimated cost is $137,000—not an unreasonable cost. We had a general appropriation, to be expended under my direction, of $100,000 last year. I ask for $200,000 this year. The $300,000 are to be expended for the acquisition of the lands, the price to be paid for the land, the leveling of the land and preparing it for future use, some little dredging, the survey of the land, the fencing of the land, and other general work of that character, which in detail amounts to about $300,000.

We need that money now. We, of course, want to pay for the land and we want to begin to prepare this station for occupancy. Of course I do not intend to ask any further general appropriation. There has been an estimate sent to the Naval Committee for the construction of certain buildings and works there—a dry dock, among other things—specifying in detail the purposes of the expenditures; but at this time I want the $200,000 for this preliminary work, and it is impracticable to specify it. It will be the last general appropriation I shall ask.

The Secretary simply wants added to the $100,000 he now has the sum of $200,000 more, to enable the Department to purchase the lands and prepare them for the buildings, so as to be ready to go ahead.

The Clerk read as follows:

UNDER BUREAU OF NAVIGATION.

For pay of inspector engaged upon work in connection with extension to Naval War College at Newport, R. I., $650.

Mr. HAY. On the paragraph beginning with line 1, on page 34, I reserve the point of order, and ask the chairman what this inspector is for. I desire to know whether this is adding to somebody's salary or whether it is an independent inspector, who he is, and what he does? I reserve the point of order.

Mr. HEMENWAY. In reply to the gentleman's question, I find the answer of the Secretary of the Navy, who says:

The next item is for the pay of an inspector, simply because of the delay on the building at Newport, which requires the inspector to be employed a few months longer than he would have been.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For clerk hire, rent, and other incidental expenses of the district land offices: *Provided*, That this appropriation shall be available for the payment of per diem, in lieu of subsistence, not exceeding $3 per day, of clerks detailed to examine the books of and assist in opening new land offices and reservations while on such duty and for actual necessary traveling expenses of said clerks, including necessary sleeping-car fares: *Provided further*, That no expenses chargeable to the Government shall be incurred by registers and receivers in the conduct of local land offices except upon previous specific authorization by the Commissioner of the General Land Office, $35,000.

Mr. MONDELL. Mr. Chairman, I move to strike out of line 14, page 39, the word "thirty-five," and insert in lieu thereof the word "fifty."

The CHAIRMAN. The gentleman from Wyoming offers the following amendment, which the Clerk will report.

The Clerk read as follows:

In line 14, page 39, strike out "thirty-five" and insert in lieu thereof "fifty;" so that it will read "fifty thousand dollars."

Mr. MONDELL. Mr. Chairman, my reason for offering this amendment is that the sum of $50,000 and more is urgently required by the General Land Office for the purposes specified in this item. The General Land Office last year asked for $220,000 for this class of work. An appropriation of $200,000 was made. We all know the work of the local land offices has very largely increased in the past year, and the amount asked for would not have been sufficient to pay the necessary expenditures. Twenty thousand dollars less than was asked was appropriated, and the deficiency therefore becomes greater than it otherwise would have been.

It will be remembered that this appropriation is not for the purpose of carrying on new work or investigations which can be waived or left undone. It is for the purpose of carrying on the work of the people in connection with the entry of public lands. There is no local land office in the country that has a single solitary clerk more than is needed for the dispatch of the public business; and the Commissioner of the General Land Office, in a memorandum that I hold in my hand, says that if the amount now asked is not allowed it will be necessary to discharge over forty clerks at the various land offices. This being true, I hope the gentleman on the committee will not offer any objection to the increase asked for.

Mr. HEMENWAY. Mr. Chairman, the Secretary of the Interior for the fiscal year 1904 estimated for $220,000. We gave $200,000. Later on the Secretary comes in and asks for a deficiency, I think, of $55,000. We gave this $35,000, or $15,000 more than they asked for originally. The original amount we appropriated was $200,000, and $35,000 makes $235,000, against the $220,000 originally requested by the Secretary of the Interior.

Mr. MONDELL. I want to call the gentleman's attention to the fact that it is utterly impossible for the Secretary of the Interior or anyone to accurately determine in advance how much business will be done at the local land offices. The business in the local land offices has trebled in the last two years. The income from the sale of public lands in the last fiscal year amounted to something like $11,000,000, or an increase of about $4,000,000 in round numbers over the year before, and the receipts for that year was nearly double the receipts of the year preceding. So that the business coming before the registers and receivers has increased by leaps and bounds.

It is absolutely necessary that the registers and receivers shall have clerical help enough to take care of the business coming before their offices. I am confident that neither the chairman of this committee nor any member of this committee wishes to have entrymen and intending entrymen on the public lands and those proposing to make final proof on their lands turned away from the land office because, forsooth, we refuse to appropriate a niggardly $25,000 or $30,000 for this necessary work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBINSON of Indiana. Mr. Chairman, I move to strike out the last word. I do this for the purpose of asking the gentleman if it is not true that the large increase in the business of the Land Office, the demand for the larger number of clerks provided for, and the additional appropriation necessitating a large sum for that purpose have been due to the large number of fraudulent entries of land?

Mr. MONDELL. Well, I will say to the gentleman that I do not think so at all. I have no knowledge that it is due to that.

Mr. ROBINSON of Indiana. It is a fact, is is not, that many millions of acres have thus been fraudulently entered in the last year or two?

Mr. MONDELL. I do not believe that is true. I believe that nine-tenths of the allegations of land fraud that have been made have been made by people who had a purpose in making such statements, and did it to serve their own personal ends, and that they are largely the paid agents of the transcontinental land-owning railways, who would like to have all the land laws repealed in order that the thirty or forty million acres which they own may find a better market.

Mr. ROBINSON of Indiana. Does not the gentleman acknowledge the fact, which has been stated in the report of the Secretary and also through the press, that millions of acres of public lands have gone astray by reason of fraudulent land entries?

Mr. MONDELL. Well, I think the gentleman rather exaggerates the statements of the Secretary of the Interior.

Mr. ROBINSON of Indiana. Then does the gentleman deny that millions of acres have gone astray by reason of fraudulent land entries, that the system through which it was done has been suspended by the Secretary, and this for the reason that the condition exists in regard to fraudulent land entries?

Mr. MONDELL. I do not pretend to know all about the land business of the Government, but I live in a State and have lived all my life in regions where public land was being entered. I live in a State where 85 per cent of the land is still public land, and I will say to the gentleman, so far as my personal knowledge is concerned, and I have taken some pains to investigate, my opinion is that in this year of grace there is less fraud in connection with public lands in the United States in proportion to the acres entered than there ever was before.

Mr. ROBINSON of Indiana. But the gentleman is not oblivious to the fact and he has evidently read the current public news which states that the Secretary of the Interior has repeatedly stated that there is a great amount of fraudulent land entries out in the western country; has he not?

Mr. MONDELL. The gentleman has not carefully read the Secretary's reports. I think the gentleman has read——

Mr. ROBINSON of Indiana. I refer to newspapers and such information——

Mr. MONDELL. The gentleman has probably read the land repeal bureau's edition of the Secretary's suggestions.

Mr. ROBINSON of Indiana. I have read the Secretary's statement and the newspaper interviews which were accredited at the time of the arrest of a gentleman engaged largely in it, but a few weeks ago, and the scandal that was ventilated in the newspapers. Surely the gentleman read that, and he knows, evidently, that some——

Mr. MONDELL. There is no question but what there has been some scandal in connection with the public lands, particularly as regards entries under timber and stone acts, in some parts of the country.

Mr. ROBINSON of Indiana. Then is it not in the interest of the public service to keep down the appropriations until these matters are regulated by the Secretary of the Interior?

Mr. MONDELL. Well, I do not follow the gentleman's philosophy or agree with his reasoning.

Mr. ROBINSON of Indiana. That is my judgment, Mr. Chairman.

Mr. MONDELL. It seems to me if he takes——

Mr. ROBINSON of Indiana. In view of the fact that the gentleman is not responding to any of the inquiries which I have put to him——

Mr. MONDELL. How is that?

Mr. ROBINSON of Indiana. The gentleman is not responding to any inquiries I have put to him. I disagree entirely with the gentleman——

Mr. MONDELL. I beg the gentleman's pardon if I am taking his time; I did not intend to do so.

Mr. ROBINSON of Indiana. No, the gentleman is not taking my time, but as he is not responding to any of my inquries here I will go on. I desire to emphasize the fact, Mr. Chairman, that that condition prevails not only with reference to this land, but the Secretary of the Interior, with the assistance of Congress, is trying to put it down, and therefore I would not at this time increase the appropriations over the head of the Appropriation Committee, which has carefully made its inquiry and presented its conclusion to this House, because, perchance, they might affect irrigation land out West or in other parts of the country in which there is public land.

Mr. LACEY. Mr. Chairman, I move to strike out the last word. I was out in the hall for a few minutes, and as I understand the amendment proposed increases the appropriation for the land offices. I want to call the attention of the committee to a memorandum that was made by the Land Department on the 27th of January, which states the situation exactly.

Either a large force of clerks must be furloughed or there must be an additional appropriation. The amount appropriated was, for clerk hire, $210,189.77; for rent of offices, $31,878.66; for incidental expenses, furniture, etc., $8,425.06. I should not say the amount appropriated, but the amount of expenditures authorized. That was what was authorized to be expended. The amount of appropriation is inadequate by $50,493.49, and to cover this deficiency an item was submitted to the committee for the urgent deficiency bill of $55,000. The amount appropriated in the bill is $35,000, which would still leave a deficit of $20,000. There are 116 land offices, in which 191 clerks are employed. These clerks receive salaries from $900 to $1,200. If only $35,000 is appropriated, this would still leave a deficit of $15,000, in order to meet which 33 clerks will have to be dismissed on February 1, but as it will require $5,000 for emergency purposes for the balance of the year it would be necessary to dismiss 44 clerks.

The situation is the same as it is in other Departments of the Government which have anything to do with the general condition of the country. The growth of the business of the country has met with a response in the business of the Land Office. The amount of land taken, the amount of business in this department has been greater than the year before, just as the business of disposing of private land by private owners has increased in the last year, and the year before, and the year before that, and for a number of years. So it is necessary that this work should proceed. If the department is embarrassed by inadequate funds, the business must be suspended to that extent, and the request for an appropriation of $55.000 is a moderate one. The income to the Government land offices is enormously in excess of the expenditure in carrying on the business of the department, which is, in fact, the largest ever known within the present generation for the past year.

Now, this requires that instead of discharging or furloughing clerks they should be kept at work. The Department is not demanding an increase of force, but they do not think this is a proper time to furlough clerks in order to keep inside of an appropriation. They have asked for $55,000. This is a reasonable request, covering the actual deficit, and they are only given $35,000. Why give them anything? Why give them $35,000? Because it is needed, and $55,000 is just as much needed as $35,000. I ask the chairman of the committee to accept this amendment. It is a very moderate request—a reasonable one—and one that is necessary in order to properly carry on the Government business.

Mr. ROBINSON of Indiana. I know the gentleman from Iowa will be frank with us. I would like to ask him if the Secretary of the Interior does not ask for this larger appropriation for the purpose of having more inspectors to discover fraudulent land entries?

Mr. LACEY. That is not involved in this appropriation.

Mr. ROBINSON of Indiana. Is not this appropriation available for that purpose?

Mr. LACEY. This proposition does not cover that question.

Mr. ROBINSON of Indiana. I ask if it is not available for that purpose?

Mr. LACEY. Not at all; it is for the ordinary business of the Department for the various clerks in the employ of the Department. The Secretary asked for this as a deficiency for carrying on the business for the remainder of this fiscal year.

Mr. ROBINSON of Indiana. Does the gentleman from Iowa agree with the gentleman from Wyoming as to the extent of the land frauds by which the business of the various Departments has largely increased within the last two years?

Mr. LACEY. I do not care to discuss the question of land frauds in this connection, because it is a long subject that I could not discuss in the time that I have and make it intelligent to the committee. At some future time I desire to take the House into the confidence of the Committee on Public Lands and give them all the information that the committee has.

Mr. ROBINSON of Indiana. The gentleman can tell us whether the Secretary has not suspended the rules by which the fraudulent land entries were encouraged and under which the operators operated.

Mr. LACEY. Oh, there have been land frauds ever since the ordinance of 1785, and there will be land frauds as long as there is a public domain. The Department will endeavor to eliminate and prevent as many of them as is possible. There are land

frauds no doubt now in cases pending before the Department. The Department of the Interior is not only trying to put them down with all the power it has, but it is doing it with vigor.

Mr. ROBINSON of Indiana. Was not the large business which makes it necessary to call for this additional appropriation caused by the land frauds, and has not the Secretary of the Interior suspended the rules under which they operated?

Mr. LACEY. No; I think not. You take the State of North Dakota, and the homestead entries there for last year were over 16,900 quarter sections, and I will venture to say there is not 1 per cent that were fraudulent. There are 16,900 quarter sections in a locality that up to within a few years was not generally sought by the public. The rainfall for the last three years has extended over that region and given them abundant harvests in a region that was regarded as arid five years ago. For the last three years it has produced an abundance of crops. You take that single State of North Dakota as an example, perhaps the most striking one, and the homestead entries of 16,900 quarter sections show the marvelous and wondrous growth. The receipts from the land office at Minot and the receipts from the land office at Bismarck have been enormous, enough to a good deal more than pay this additional appropriation, I think, twice over, so that while there have been frauds the amount of legitimate business has been enormously increased. People are moving to the West and occupying every foot of available land for homestead entries.

Mr. SHAFROTH. Mr. Chairman, I move to strike out the last words. I would like to say a word in relation to this. This appropriation, as I understand it, is called for by the Secretary of the Interior in order to keep in employment of the Government the number of clerks that are now doing land-office business in the various land offices of the United States. To curtail that appropriation to $35,000 would of necessity dispense with a great many of those clerks, as they are not getting a large amount of salary. The gentleman from Indiana [Mr. ROBINSON] has asked whether or not these men do anything in the way of ferreting out frauds. I will state to the gentleman from Indiana that if you were to curtail this force you would of necessity curtail to some extent at least the examination of frauds, because inquiries are continually made in the various local land offices as to what has been preempted and what has been located on. Consequently, if you diminish the force there, you will of necessity delay the replies of the register and receiver to the Secretary of the Interior.

Now, it seems to me that from every standpoint this appropriation ought to be passed—from the standpoint of efficiency of administration, from the standpoint of not impeding the location upon lands by honest settlers in the West, and also from the standpoint of the very purpose which the gentleman from Indiana [Mr. ROBINSON] seeks, namely, that whatever inquiries may be made with relation to actual fraudulent entry the various registers and receivers can give them speedily.

Mr. ROBINSON of Indiana. But the gentleman differs from the gentleman from Iowa [Mr. LACEY] as to the availability of the funds to the end of protecting the public lands against frauds.

Mr. SHAFROTH. It is not available for certain kinds, but you can see, if an inspector or if any person is ferreting out these frauds and makes inquiries of these local officers, they have got to have a sufficient force to answer them and answer them quickly. If that force is diminished to a point where it is necessary only to do the ordinary business, anyone can see that of necessity it would diminish the efficiency of the force, because it would take a longer time to get replies.

Mr. ROBINSON of Indiana. Why not be fair to the House, and state that the reason for it is to ferret out the gross frauds that have obtained in the last two years, if such be the purpose?

Mr. SHAFROTH. No; I think the reason for it is to have a due administration of the laws, as far as it can be given. These clerks are necessary. They are not large-salaried clerks. They do the work in these offices, and to discharge them now would impede the work and a reply to every inquiry that is made of these officers. It seems to me that this appropriation should pass.

Mr. ROBINSON of Indiana. Mr. Chairman, I move to strike out the last word and send to the Clerk's desk to be read a synopsis of the report of the Secretary of the Interior.

Mr. TAWNEY. The first question to be taken will be on the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

Mr. ROBINSON of Indiana. But I move to strike out the last word for the purpose of getting the floor. I ask for recognition to have the Clerk read a brief synopsis of the report of the Secretary bearing on this section.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

With respect to the necessity of an increased appropriation for the protection of the public domain, it can truly be said that the need of a field force was never greater. From every section of the country there comes to this office complaints of the disposition of the public lands in violation of law, and in the despoliation of the timber and the maintenance of unlawful inclosures upon the lands. These complaints cite cases where it is found upon investigation that speculators, cattle companies, corporations, and individuals are all engaged in an effort to plunder the public domain. Entries are being made without residence or improvement, timber lands are being taken for speculation, and fictitious proofs are being made, especially before officers other than registers and receivers, as to the compliance of the claimants with the laws.

The present appropriation furnishes scanty support to scarcely sixty agents, and it is only necessary to state it in order to emphasize the impotency of the present force to reach out over the vast area of public lands and protect them from the wholesale frauds that are now being attempted. Not only is the present field force required to cover the large area of lands and prepare the cases for prosecution, but they are required to assist in the prosecution of those cases at hearings before the local officers and in suits before the courts. This and many incidental matters necessarily consume a large portion of the time of the special agents, and prevent them from giving their entire time and attention to the investigation of cases in the field.

The amount of work done by the field force during the past year in al classes of cases has been such as to call loudly for recognition in the form of increased appropriation, in order that the work in which they have been engaged may be made effective by securing the cancellation of fraudulent entries and settlements for timber unlawfully taken from the lands, and in compelling the removal of inclosures unlawfully maintained.

If the purposes for which the public domain was originally opened to the home builders are to be kept in mind, there should be a determined effort made to secure a rigorous enforcement of the beneficent laws which have been enacted in pursuance of that purpose.

The developments of the past six months have satisfied me that the present appropriations are wholly inadequate to enable the office to secure anything like an effective execution of the laws and to clear the records of any considerable portion of the large number of alleged fraudulent entries now awaiting action.

There can be no doubt of the great necessity for the increased appropriation. This is demonstrated by the fact that there are now nearly 20,000 entries which are suspended on the charge of fraud. About half of this number are in the different stages of adjustment. Many have been relieved from suspension, and many have been canceled upon Government proceedings. About 6,000 entries under the timber-land law of June 3, 1878, have been suspended on a showing satisfactory to this office that they have not been made in compliance with law, but in the interest of other persons and corporations. So specific and comprehensive are the complaints, that by departmental order of November 18, 1903, all entries heretofore made or hereafter to be made under that act are suspended pending investigation by a special agent into the bona fides of the entrymen. There are about 2,500 entries which have been commuted under the homestead law without sufficient showing of residence or improvements. Nearly 1,000 soldiers' additional applications under section 2306 and a large number of soldiers' widows' applications under section 2307 are also shown to have been made in violation of the laws. To this must be added the large number of cases involved in timber trespass and unlawful inclosures.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBINSON of Indiana. Mr. Chairman, I ask unanimous consent to be permitted to continue for three minutes.

Mr. LIVINGSTON. Mr. Chairman, I suggest that the limitation has run on this paragraph.

The CHAIRMAN. Does the gentleman make the point of order that debate has been exhausted on this paragraph?

Mr. ROBINSON of Indiana. I ask for only three minutes.

Mr. LIVINGSTON. I withdraw the point of order.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that he may be permitted to proceed for three minutes. Is there objection?

There was no objection.

Mr. ROBINSON of Indiana. Mr. Chairman, that is the statement of the Secretary of the Interior, made in his report. This proposition to increase the appropriation over the head of the recommendation of the Committee on Appropriations, I think, ought not to be granted, even though it be for a purpose stated by the gentleman from Iowa [Mr. LACEY] and the gentleman from Wyoming [Mr. MONDELL] and also the gentleman from Colorado [Mr. SHAFROTH].

Mr. LACEY. Is not the gentleman mistaken? This is a deficiency appropriation. The request he makes is for the permanent annual appropriation.

Mr. ROBINSON of Indiana. Then the gentleman who says this makes no difference is mistaken. This appropriation, he says, is not available for the purpose. The Secretary desires it in the line of the investigation of the great fraudulent land entries. I commend those statements of the Secretary of the Interior. The only other reason why this should be granted, outside of the one mentioned by the gentleman from Iowa and the one I have mentioned—the ferreting out of fraud—is because the irrigation communities desire again to appeal to the United States Treasury, although they promised on this floor that if we would pass the irrigation act they would not come back again to ask for a general appropriation. Yet by every avenue they can enter, by every means that they can devise, they come here trooping along, asking in some sense or in some way for an additional appropriation for the great ventures out in the irrigable land region.

I would have frankness from gentlemen on this floor. If they desire this money for the purpose of ferreting out frauds, I hope they will say so and not stand on the floor here and make statements which would seem to imply otherwise. The gentleman from Colorado [Mr. SHAFROTH] was very frank about this matter, and said he thought the appropriation would in some slight way be available for that purpose.

Mr. SHAFROTH. The irrigation act, as I understand——

Mr. ROBINSON of Indiana. I withdraw my pro forma amendment.

Mr. LIVINGSTON. I now renew the point of order that the debate on the paragraph is exhausted.

The CHAIRMAN. The point of order is sustained. The question is on agreeing to the amendment of the gentleman from Wyoming [Mr. MONDELL].

The question being taken, there were on a division (called for by Mr. ROBINSON of Indiana)—ayes 58, noes 26.

So the amendment was agreed to.

The Clerk read as follows:

For furnishing transcripts of records and plats, to be expended under the direction of the Secretary of the Interior, $4,500: *Provided*, That copyists employed under this appropriation shall be selected by the Secretary of the Interior at a compensation of $2 per day while actually employed, at such times and for such periods as the exigencies of the work may demand.

Mr. LACEY. I offer the amendment which I send to the desk.

The Clerk read as follows:

For per diem in lieu of subsistence of inspectors and of clerks detailed to investigate fraudulent land entries, trespasses on the public lands, and cases of misconduct, $1,500.

The Chairman proceeded to put the question on agreeing to the amendment, and said, "The ayes seem to have it."

Mr. HEMENWAY. I want to discuss that amendment. I supposed that the gentleman from Iowa had some explanation to offer. I call for a division, if necessary.

Mr. LACEY. I hope this matter will be left open, by unanimous consent, until it can be explained.

The CHAIRMAN. If there be no objection, the vote will be withheld until the amendment has been explained.

Mr. HAY. I object. I call for the regular order.

The question being again taken, there were—ayes 8, noes 30.

So the amendment of Mr. LACEY was rejected.

The Clerk read as follows:

Removal of intruders, Five Civilized Tribes: For the purpose of removing intruders and placing allottees in unrestricted possession of their allotments, $15,000.

Mr. STEPHENS of Texas. I raise a point of order on the paragraph just read. I submit that it is not in accordance with the existing law, but is a new provision. I will state very frankly that in the Fifty-sixth Congress a provision of this kind was passed, but it was omitted in the Fifty-seventh Congress. No similar provision was adopted in that Congress; consequently it is not existing law.

Mr. UNDERWOOD. Mr. Chairman, I understand that there is a provision of law that when necessary the Commissioners of the Five Civilized Tribes, constituting what is called the "Dawes Commission," shall put these Indians in actual possession of their land after it has been apportioned to them. The testimony of the Indian Commissioner before the committee was to that effect; and as an appropriation heretofore made for this purpose has been exhausted, this provision has been inserted in the bill to carry out that proposition of the law. I understand that there is already an enactment of law to this effect so far as the Dawes Commission is concerned.

The CHAIRMAN. Does the Chair understand the gentleman from Alabama [Mr. UNDERWOOD] to state that the law now requires the Dawes Commission to place these Indians in possession of their lands?

Mr. UNDERWOOD. In actual possession of their lands. The appropriation to pay the agent to put them in possession of their lands has been exhausted.

Mr. STEPHENS of Texas. I was not aware of any law of that kind now existing.

The CHAIRMAN. Can the gentleman from Alabama cite the law?

Mr. UNDERWOOD. I have not the volume at hand, but I think the chairman of the committee [Mr. HEMENWAY] can probably do so.

Mr. HEMENWAY. In the treaties with the different tribes of Indians we have a provision that the Indians shall be put in possession of their allotments.

Mr. STEPHENS of Texas. What law is that?

Mr. HEMENWAY. In all these treaties with the different Indian tribes there is that provision that where the land is allotted the Indians shall be placed in possession of their allotments. Now let me state the necessity for this appropriation as shown in the hearings. In one case, we will suppose, a man has a pasture of 75,000 acres. The land is allotted. An Indian comes and claims possession of the piece of land allotted to him. The man in charge, the occupant of the land, bluffs him off and says, "You can not have it."

The CHAIRMAN. Can the gentleman from Indiana cite for the information of the Chair the statute referred to?

Mr. HEMENWAY. We can secure one of these treaties so as to show it to the Chair later on. I ask unanimous consent that we pass the item and go ahead with the reading of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. STEPHENS of Texas. I have other objections to the section. I desire to move to strike it out, and also to amend it, when we return to it.

The CHAIRMAN. Without objection, it will be passed.

Mr. HEMENWAY. If the gentleman desires to move to strike it out, we can pass on the motion to strike it out now.

Mr. STEPHENS of Texas. I desire a ruling as to whether or not it is germane or whether it is new legislation.

Mr. HEMENWAY. Reserve the right, if it is not stricken out, to raise the point of order.

The CHAIRMAN. The request is that the paragraph be passed, reserving to the gentleman from Texas the right to move to strike it out or to amend it. Is there objection?

There was no objection.

The Clerk read as follows:

Contingent expenses: For all necessary contingent and miscellaneous expenses of the office of the Secretary of Commerce and Labor, the Bureaus of Manufactures and Corporations, and the bureaus and offices transferred to the Department of Commerce and Labor, including the purchase of professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, newspapers (not exceeding $2,500), stationery, furniture and repairs to the same, carpets, matting, oilcloth, file cases, towels, ice, brooms, soap, sponges, fuel, lighting and heating; for the purchase, exchange, and care of horses and vehicles, to be used only for official purposes, and for rent of stable therefor from July 15, 1903, to June 30, 1904; freight and express charges, postage, telegraph and telephone service, typewriters, and adding machines, and all other miscellaneous items and necessary expenses not included in the foregoing, $35,000.

Mr. HAY. Mr. Chairman, on page 45, line 3, I move to strike out the word "newspapers."

The amendment was read by the Clerk, as follows:

Page 45, line 3, strike out the word "newspapers."

Mr. HAY. I should like to inquire of the chairman of the committee why there should be an appropriation made for the office of the Secretary of Commerce and Labor for newspapers? The gentleman made a very sharp criticism on the Committee on Military Affairs the other day because they were making appropriations to buy what he called "French novels." Now, I do not know why we should appropriate for newspapers for the Department of Commerce and Labor.

Mr. HEMENWAY. The gentleman evidently misunderstood the gentleman from Indiana the other day. I was not opposing the item of newspapers or any necessary item. What I was seeking to do was to limit the amount that could be expended for these purposes, and if the gentleman will notice, in this bill we do exactly what I was seeking to do on the military bill. Of this item of $35,000 we provide that not to exceed $2,500 shall be expended for—

Professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, and newspapers.

Mr. HAY. Why should we appropriate for newspapers?

Mr. HEMENWAY. The Department of Commerce and Labor have to advertise in newspapers for all the supplies they buy, and in many instances under the law are required to advertise in certain newspapers. Now, in order that they may know that the advertisements have been inserted, they must subscribe for a limited number of newspapers. The item, of course, in this bill, as in all other bills coming from the Committee on Appropriations, is now limited to a certain amount of money that can be expended for the purchase of books, newspapers, and periodicals.

Mr. HAY. But you do not limit the amount that may be expended for periodicals and newspapers.

Mr. HEMENWAY. This is a part of the appropriation for professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, and newspapers. All of those items shall not exceed $2,500, out of the total appropriation of $35,000.

Mr. PAYNE. May I suggest to the gentleman that the Bureau of Statistics is in this Department of Commerce and Labor?

Mr. HEMENWAY. Yes.

Mr. PAYNE. Does it not necessarily have to take a number of newspapers?

Mr. HEMENWAY. Oh, yes; there is the Bureau of Statistics, the Bureau of Navigation, and a whole lot of other bureaus.

Mr. PAYNE. They have to subscribe to technical newspapers and other newspapers.

Mr. HEMENWAY. Certainly.

Mr. HAY. Do they have to subscribe for periodicals?

Mr. HEMENWAY. Yes; many of them.

Mr. HAY. For Ainslee's Magazine and Harper's, etc.?

Mr. HEMENWAY. No.

Mr. HAY. You provide for it here. They can buy them.
Mr. HEMENWAY. No.
Mr. HAY. The gentleman said the other day in debate that the head of a Department was buying all sorts of books and periodicals and magazines.
Mr. HEMENWAY. Yes.
Mr. HAY. Now, I want to know why they could not buy any periodical they please under this appropriation?
Mr. HEMENWAY. No, sir; because we ascertain the amount of money necessary to buy the actual papers and periodicals that they need for their professional use and limit the amount that can be used to that sum.
Mr. HAY. Why can not they take part of the $2,500 to which you limit them and subscribe for any periodical they choose?
Mr. HEMENWAY. Because they are prohibited, first, by law from doing that.
Mr. HAY. Where is the law that prohibits them?
Mr. HEMENWAY. And next, because the amount of money authorized in this item is not sufficient. The gentleman ought to be fair. Under the item in the army bill you have a large lump sum appropriated, running into the thousands of dollars, as we have here. Now, all I asked of the gentleman was to limit the amount that should be authorized to be used to buy books and buy periodicals and newspapers, etc., just as we limit it in this bill.
Mr. HAY. Why, it was limited there.
Mr. HEMENWAY. Oh, no; it was not.
Mr. HAY. Why, the contention of the gentleman——
Mr. HEMENWAY. It was by the amendment that was put on.
Mr. HAY. Why, the contention of the gentleman from Indiana was that the periodicals and newspapers provided for in that item, as in this, had no limitation upon it.
The CHAIRMAN. The time of the gentleman from Virginia has expired.
Mr. HEMENWAY. I ask that the gentleman have three minutes additional time.
The CHAIRMAN. Without objection, the time of the gentleman will be extended for five minutes.
There was no objection.
Mr. HAY. The point made by the gentleman from Indiana was that under that appropriation the money could be expended for any book the head of the Department desired. So now, I say, under "periodicals" you can expend that or as much as you please in subscriptions to magazines. That was the contention that the gentleman from Indiana made, and an amendment was agreed to providing that it should be "professional periodicals," dealing with subjects pertaining to its own particular branch. I think the same ought to be done here.
Mr. HEMENWAY. Well, the gentleman will remember that the amendment offered by "the gentleman from Indiana" was to limit the amount that could be expended for periodicals, books, etc., to $200.
Mr. HAY. Periodicals and newspapers, $200.
Mr. HEMENWAY. I said then to the gentleman from Virginia if $200 was not sufficient amount, not being sufficiently familiar with it myself to fix the amount, they might fix the amount at a sufficient amount—just exactly what has been done by the Committee on Appropriations. Why, here is an appropriation for $35,000 for contingent expenses. We put in here a limit of $2,500 that can be expended out of this $35,000 item. Just exactly what I asked the gentleman to do on the army bill. Now, prior to the time limits were placed in the bills they could take any sum out of the lump sum appropriated and buy any book that they considered necessary, and thus build up libraries of fiction in the Departments. As soon as limitations were put upon it they have confined themselves to the items absolutely necessary, and there have been no more purchases of books of fiction in consequence.
Mr. HAY. Is it not a fact that under this provision of $2,500 for books of reference, etc., they can expend out of that $2,500 any amount they please for any kind of books they please?
Mr. HEMENWAY. No.
Mr. HAY. Why not?
Mr. HEMENWAY. Will the gentleman read the item?
Mr. HAY. You do not limit them?
Mr. HEMENWAY. It is evident that the gentleman has not read the bill.
Mr. HAY. I have read the bill.
Mr. HEMENWAY (reading). "Including the purchase of professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, newspapers."
Mr. HAY. Does that mean "professional" periodicals?
Mr. HEMENWAY. Why, certainly.
Mr. HAY. Why not say so?
Mr. HEMENWAY. Why, we *do* it.
Mr. HAY. Oh, no.
Mr. HULL. Does not the gentleman from Indiana want to conform to the army bill and put in the word "technical?"
Mr. HEMENWAY. I did not put in that amendment; it was put in by a member of your own committee.
Mr. HAY. I suggest that you comply with your own suggestion and say that so much money will be expended for newspapers and periodicals, and comply with the suggestion that you insisted we should make in the army bill.
Mr. HEMENWAY. I do not say that they shall not have the right to subscribe for newspapers.
Mr. HAY. The gentleman says that they have got to do that, because they have advertisements in the newspapers and have got to take them in order to see that the advertisements appear in those newspapers.
Mr. HEMENWAY. And for the other reasons that I gave. The Bureau of Statistics is in this Department, and the Bureau of Navigation is there, and there are thirteen or fourteen divisions——
Mr. HAY. You say that the Bureau of Navigation is there?
Mr. HEMENWAY. The Bureau of Navigation is there, and there are thirteen or fourteen divisions covered by the Bureau of Labor.
Mr. HAY. I did not know that the Bureau of Navigation was there.
Mr. BOUTELL. Will the gentleman from Indiana yield?
Mr. HEMENWAY. Yes.
Mr. HAY. I thought I had the floor.
Mr. HEMENWAY. I had the floor and yielded to the gentleman from Virginia.
Mr. BOUTELL. Will the gentleman from Virginia kindly yield?
Mr. HAY. Certainly.
Mr. BOUTELL. In order, perhaps, to put as speedy an end as possible to this controversy and satisfy the gentleman from Virginia, I would like to call attention to this one expression of Thomas Jefferson——
Mr. HAY. I did not suppose that the gentleman could call attention to anything more after what he said the other day.
Mr. BOUTELL. Thomas Jefferson said, in writing to Edward Carrington:

> The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter.

I think that is good Democratic doctrine.
Mr. HAY. If that throws any light, it can only throw light upon the mind of the gentleman from Illinois.
The CHAIRMAN. The time of the gentleman from Virginia has again expired.
Mr. HAY. Well, Mr. Chairman, I move to strike out the last two words.
Mr. PAYNE. If the gentleman will allow, I will move to strike out the last word and will take but a minute or two and then yield the balance of the time to him. Mr. Chairman, I want to suggest to the chairman of the Committee on Appropriations there is a strong question as to whether his provision of the twenty-five hundred dollar limit applies to anything more than newspapers. I suggest that he amend by adding, after the word "dollars," "for all the foregoing."
Mr. HEMENWAY. I will say to the gentleman from New York that the Comptroller has passed upon this two or three times and holds that it applies to all these.
Mr. PAYNE. I suppose that makes the law for the present Comptroller, but it is not a sensible construction of the language.
Mr. HEMENWAY. I think it is.
Mr. PAYNE. Then, I want to ask the gentleman whether "professional and scientific" applies to anything more than the word "books," or whether it goes on down through the item?
Mr. HAY. That is a point I suggested all the time.
Mr. PAYNE. It will hardly apply to blank books.
Mr. HEMENWAY. You can not apply that to the newspapers and possibly not to periodicals, because there is the Bureau of Statistics, the Bureau of Labor; they can not conduct the business of those great bureaus without reading the newspapers of the country.
Mr. PAYNE. I agree with the gentleman; I think it is utterly impossible.
Mr. HEMENWAY. It is a wholly different proposition for the War Department, the Navy Department, or some other Department which does not need them for their official purposes.
Mr. PAYNE. That is the reason I asked the question. I did not know but what the Comptroller had decided that it applied also to the newspapers.
Mr. HAY. I would like to ask the gentleman from New York if the Bureau of Statistics relies upon newspapers for their statistics?
Mr. PAYNE. I suppose for market prices, yes. I do not see where they can get them elsewhere. The Bureau of Labor relies for information upon strikes and matters of that kind upon newspapers as well as other information they can get.

Mr. HAY. I am surprised to know it.

Mr. PAYNE. I suppose it is impossible for them to get along without having a large number of newspapers to gather their statistics from, such as may be of use to them. They must do that.

Mr. HAY. Of newspapers?

Mr. PAYNE. Certainly.

Mr. HAY. The same argument would apply as to the Navy or the Army or any other Department of the Government, that they rely for their information upon what appears in the newspapers.

Mr. PAYNE. I do not think so; but we will cross that bridge when we come to it on the naval bill.

Now, Mr. Chairman, I yield the balance of my time to the gentleman from Virginia, as I agreed to do.

Mr. HAY. Well, I was going to get it in my own right.

I withdraw the amendment to strike out the word "newspapers," and move to insert, in line 3, page 45, before the word "newspapers," the word "professional."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 45, line 3, before the word "newspapers" insert the word "professional."

Mr. HEMENWAY. Will the gentleman yield for a question?

Mr. HAY. Certainly.

Mr. HEMENWAY. I want to ask the gentleman, with the word "professional" before the word "newspapers," what newspapers they can buy?

Mr. HAY. Any newspapers of that character.

Mr. HEMENWAY. What is a professional newspaper as applied to this Department of Commerce and Labor?

Mr. HAY. You might call the Scientific American a professional newspaper.

Mr. HEMENWAY. Well, as applied to the labor item?

Mr. HAY. Labor organizations have a great many publications.

Mr. HEMENWAY. As applied to the Bureau of Corporations, what would be professional?

Mr. HAY. I do not know that corporations have any professional newspapers. They seem to have control of a great many newspapers. [Laughter.]

Mr. HEMENWAY. If your amendment is adopted, what newspapers could the Bureau of Corporations buy?

Mr. HAY. What would they want of the newspapers? What statistics could they get from them generally about corporations?

Mr. HEMENWAY. Mr. Chairman, I want to be recognized a minute in opposition to this amendment.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. HEMENWAY. The House can see how—I was going to say how ridiculous this amendment would be. Here is a Department of Commerce and Labor, which has its different bureaus—the Bureau of Statistics, the Bureau of Labor, the Bureau of Navigation, the Bureau of Corporations, and all these great bureaus that must have daily newspapers. It is absolutely necessary for them to have the current news. Under the amendment which the gentleman has offered they could not buy them. I think the amendment offered by the gentleman ought to be defeated.

Mr. LIND. Mr. Chairman, I feel very much as does the chairman of the Committee on Appropriations. It seems to me that we are quibbling a good deal about matters of not much consequence. We are dealing here with a Department the head of which has had the candor to ask the Appropriations Committee for just what he wanted. He is the only one, as I understand it from the members of the committee, who asked for coachmen specifically, and the head of a Department who goes before the House with so much candor ought certainly to be trusted in the matter of buying newspapers, and who knows but that he may want the newspapers to advertise for the trusts? [Laughter.]

The enforcement of the trust legislation is committed to his Department. I think he ought to be afforded every facility, every opportunity to execute the law as he says he will. He appeared the other evening at the banquet given to the boards of trade in this city, I think, as the spokesman of the President, to present the President's greetings, and in discussing this question of the execution of trust legislation committed to him he said that he wanted the gentlemen before him to understand that these laws would be sanely and conservatively executed.

Now, a man who shows so much discretion, so much care and candor in public affairs, ought to be trusted with a few dollars to expend for newspapers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and the amendment was rejected.

Mr. GARDNER of Massachusetts. Mr. Chairman, I desire to offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 45, line 15, insert "for rent and necessary expenses of the United States shipping commissioners' offices, $6,000."

Mr. UNDERWOOD. To that, Mr. Chairman, I reserve a point of order.

Mr. GARDNER of Massachusetts. Mr. Chairman, the point of order in this case, which I suppose the gentleman from Alabama intends to reserve, is that the appropriation is not in accordance with existing law. It is precisely because this appropriation is in accordance with existing law that I offer the amendment. The law specifically requires that the rent and necessary office expenses of United States shipping commissioners shall be paid out of the Treasury. That requirement has been confirmed by the Supreme Court in an opinion handed down by Justice Shiras in the case of The United States against James C. Reed. It has subsequently been confirmed by special statutory requirement to the effect that these expenses should be paid by the United States Government.

And yet year after year the Commissioner of Navigation has sent in these expenses in his estimates, and year after year the Committee on Appropriations has simply refused to appropriate the money. Now, I am perfectly aware that it is by no means unusual for the Committee on Appropriations to override the law and refuse to appropriate for expenses provided for in existing law; but in this case there is no economy whatever in such a course, because year after year these shipping commissioners go to the Court of Claims and get judgment in their favor for the necessary and legal expenses of their offices. Not one cent is gained by the Government, and a great deal is lost in defending these cases in the Court of Claims, while the shipping commissioners are put to unnecessary expense to get their money. Now, if it was a question of salary it would be one thing. The officer who has less money appropriated for his salary than the law entitles him to has no remedy, but when it is a case of expenses incurred for the Government he can go before the Court of Claims and get his judgment.

Now, Mr. Chairman, I want to call the attention of this committee to page 59 of the bill that we are considering. Under the heading "Judgments, Court of Claims," a certain sum is appropriated to pay for judgments in the Court of Claims, as specified in two documents, one of which I hold in my hand, Document No. 275. Three of the claims that are being paid in this very bill under that paragraph are the claims of Robert F. Morse, shipping commissioner at Bath, Me., Joseph M. Dickey, now railroad commissioner of the State of New York and formerly shipping commissioner of the port of New York, and the estate of Ellwood Becker, deceased, the three claims amounting in all to about $7,000. They were adjudged on December 14 last, and we are paying for them in this very bill. Every shipping commissioner whose expenses we cut off will go before the Court of Claims under the decision in the case of The United States *v.* Reed, and he is going to get this very amount which I ask you to put into the bill.

We shall have to pay it in the long run, and in addition we must go to all the expense of defending those suits. We shall take right out of the pockets of our shipping commissioners their necessary expenses for the litigation in our Court of Claims.

Mr. UNDERWOOD. Mr. Chairman, one of the reasons why I shall insist upon the point of order is that the gentleman from Massachusetts [Mr. GARDNER] did not appear before this committee to make any attempt to procure this appropriation or give an explanation why it should be made. My point of order against the appropriation coming now is that this is an urgent deficiency bill, and the item he contends for would not properly be an item on this bill, even if he had appeared before this committee and attempted to have it put on. This is not an urgency item, and it would naturally go on the sundry civil bill and not on this bill if the appropriation committee appropriated it.

Mr. GARDNER of Massachusetts. Mr. Chairman, my item covers a deficiency already accrued. As a matter of fact, I went to the Committee on Appropriations——

Mr. HEMENWAY. Will the gentleman yield for a minute? I will ask the Chair if the point of order has been passed upon?

The CHAIRMAN. It has not. The gentleman from Alabama reserved the point of order, but the Chair understands now that he makes the point that this is not a deficiency appropriation.

Mr. UNDERWOOD. And especially an urgent deficiency appropriation.

Mr. GARDNER of Massachusetts. Mr. Chairman, I submit that it is a deficiency appropriation. Those expenses have all been incurred and have not been taken care of by law.

The CHAIRMAN. The Chair calls the attention of the gentleman from Massachusetts to the fact that his amendment does not state for what nor the time these expenses were incurred and for which this $6,000 is to be appropriated. The amendment says simply for expenses of United States shipping commissioners' offices, $6,000.

Mr. GARDNER of Massachusetts. Mr. Chairman, if necessary I will insert the words "existing deficiencies;" but I submit

that the amendment when read in connection with the whole bill renders no such wording necessary. I will, however, make that addition to my amendment and request that the Clerk add it.

The CHAIRMAN. Does the Chair understand the gentleman from Massachusetts to ask that this amendment be inserted in line 15, page 45, as indicated on the amendment?

Mr. GARDNER of Massachusetts. Under "Contingent expenses," at the end of line 14.

The CHAIRMAN. The gentleman has indicated it was at the end of line 15.

Mr. GARDNER of Massachusetts. Well, at the beginning of line 15.

The CHAIRMAN. The Clerk will again report the amendment as modified.

The Clerk read as follows:

Page 45, line 14, insert, "for rent and necessary expenses of United States shipping commissioners' offices, $6,000, for existing deficiencies."

Mr. UNDERWOOD. Mr. Chairman, as that amendment now reads it is not germane to the paragraph where it is inserted, and I also make that point of order.

The CHAIRMAN. The Chair would call the attention of the gentleman from Alabama [Mr. UNDERWOOD] to the fact that this is not offered as a new paragraph, but that it is a continuation of the paragraph just read, after the word "dollars" in line 14.

Mr. UNDERWOOD. Well, it is not germane, Mr. Chairman, to that portion of the bill that we are reading. That paragraph and that section of the bill relate to the contingent expenses in the office of the Secretary of Labor, if I have the right place in the bill. It does not relate to either rent or to the payment of salaries of officials.

Mr. GARDNER of Massachusetts. I was not aware that I had offered it as an amendment to any particular paragraph of the bill. I offered it as an independent provision.

The CHAIRMAN. The Chair understood the gentleman to offer it as an addition to the paragraph ending on line 14, page 45. The gentleman now offers it as an additional paragraph to come in after line 14. The Chair is of the opinion that the amendment as modified by the gentleman is in order. The point of order is overruled.

Mr. HEMENWAY. Mr. Chairman, this amendment ought not to be adopted for the reason that it has not been considered by any committee of the House. There is nothing in the amendment to inform the House as to whom this money is to be paid to, or what for, or why. In addition to that, here are judgments, as the gentleman states, of the Court of Claims, arising out of this same transaction. We do not know whether the judgments included in this item are the same judgments that we appropriate for here in the bill or not. No item of this kind ought to go upon an appropriation bill without first being considered by some committee of this House. This item has not been considered. It has not been referred in the regular way for consideration by the Committee on Appropriations. There was no estimate for it considered by the committee in making up this bill.

Mr. GARDNER of Massachusetts. Do I understand the chairman of the committee to say that this was not included in the estimate of the United States shipping commissioners?

Mr. HEMENWAY. For the next fiscal year there are some estimates; but nothing at all on this bill.

Mr. GARDNER of Massachusetts. I submit that in the last estimate this matter which this amendment of mine covers was specifically estimated, and I think that the former chairman of the Committee on Appropriations, now sitting on my right [Mr. CANNON], will bear me out in that statement.

Mr. HEMENWAY. That may be true, but that was at the last Congress. At this session there was no estimate on this subject submitted to the committee having in charge the urgent deficiency bill.

I repeat that the amendment offered by the gentleman has not been considered by any committee. There is nothing in the amendment indicating what it is for, except that it is to cover certain indefinite deficiencies not set out in the amendment and which Congress does not know anything about, and does not know whether or not they are included in items of appropriation in this bill for judgments of the Court of Claims. Certainly it would not be wise for Congress to adopt any proposition of this kind without knowing something about it. I sincerely hope that the amendment will be rejected and that the item will go to the proper committee to be regularly considered and reported upon before being adopted.

Mr. GARDNER of Massachusetts. Do I understand the gentleman to suppose that the proceedings in our Court of Claims are so rapid that any of the shipping commissioners' expenses of last year can possibly be included in the judgments of the court in the cases of Morse and Dickey and Baker?

The question being taken on the amendment of Mr. GARDNER of Massachusetts, it was rejected.

Mr. OVERSTREET. I desire to offer an amendment to insert, after the word "homes," in line 21, page 45, the following words: "and designated headquarters."

Mr. HEMENWAY. I make the point of order that this is a change of law.

Mr. OVERSTREET. Will the gentleman reserve that point for a moment?

Mr. HEMENWAY. I reserve it if the gentleman wishes to be heard.

Mr. OVERSTREET. The point to which I desire to call the attention of the committee is that without these words of limitation this provision will clearly grant to these inspectors $4 additional pay for every day in the year. I do not think that such is the intention of the Committee on Appropriations nor of the Committee of the Whole.

These men will always be away from their homes as soon as appointed; but they will be at headquarters most of the time, and as this is a per diem in lieu of an expense incurred, I think that a limitation ought to be fixed in the law.

I confess that I am not familiar just now with what the law is; but I believe it is the clear intention of the law that the $4 a day in lieu of subsistence is not additional salary, unless the person is away from both his home and his headquarters in the discharge of his duties.

Mr. HEMENWAY. I am not quite sure, Mr. Chairman, discussing the merits of this proposition, whether or not this would be a good provision; but certainly it ought to be considered very carefully before being placed on this bill; and as this is only a deficiency bill, and this item will come up on the regular appropriation bill, I shall insist on my point of order until I can investigate more fully as to what the effect of this change would be. It is certainly a change of existing law.

The CHAIRMAN. The Chair desires to ask the gentleman whether there is any law at present specifying these salaries?

Mr. HEMENWAY. No law except such as is enacted in the appropriation bill. The current appropriation law has the language which appears in the deficiency bill. I know of no law other than the law fixed by the current appropriation law.

The CHAIRMAN. The Chair is of the opinion that this amendment is in order. It is merely descriptive of the purpose for which the money is to be appropriated. It does not create any new duties or any new offices. It merely amplifies what is already required under this provision. The Chair overrules the point of order. The question is on the amendment offered by the gentleman from Indiana [Mr. OVERSTREET].

The question being taken, on a division (demanded by Mr. OVERSTREET) there were—ayes 47, noes 33.

Mr. HEMENWAY asked for tellers.

Tellers were ordered; and the Chairman appointed Mr. HEMENWAY and Mr. OVERSTREET.

The committee again divided; and the tellers reported—ayes 78, noes 41.

Accordingly the amendment was agreed to.

The Clerk read as follows:

Hereafter the clerk of the supreme court of the District of Columbia shall account for official emoluments in the same manner as clerks of the United States circuit and district courts.

Mr. ROBINSON of Indiana. Mr. Chairman, at the request of my colleague [Mr. CRUMPACKER], who is unavoidably detained, and for him, I make the point of order against lines 9, 10, 11, and 12 of page 50 as being contrary to existing law. I am ready to cite to the Chair the provisions of the District code passed in 1901, and the provisions of the law of 1875 governing the conduct of the clerks with reference to their emoluments.

The CHAIRMAN. Does the gentleman make the point that this changes existing law?

Mr. ROBINSON of Indiana. That it changes existing law, and I have for the inspection of the Chair, or will read to the Chair, the code provisions which were passed in 1901 which govern the conduct of clerks with reference to their emoluments. The purpose of these lines in this bill is to have them governed by the general law of 1875. I will send a marked copy to the Chair. The purpose of this act is to make the provision of the general law applicable to the clerks, instead of the special law that was passed in the District Code of 1901.

The CHAIRMAN. It seems to the Chair that on the face of the paragraph it is legislation involving an accounting for official emoluments different from what the law now contemplates, and from the statute which the gentleman has sent to the desk it is evident that it is a change of existing law. The Chair therefore sustains the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bill and

joint resolution of the following titles; in which the concurrence of the House was requested:

S. 3317. An act authorizing the Secretary of the Interior to grant right of way for pipe lines through Indian lands; and

S. R. 36. Joint resolution accepting a reproduction of the bust of Washington from certain citizens of the Republic of France, and tendering the thanks of Congress to the donors therefor.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to concurrent resolution No. 13.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to Senate concurrent resolution No. 21, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PLATT of New York, Mr. MCCOMAS, and Mr. GORMAN as the conferees on the part of the Senate.

URGENT DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

To pay amount found due on account of canceling machines, fiscal year 1902, as certified in House Document No. 366, of this session, $225.

Mr. OVERSTREET. Mr. Chairman, reserving the point of order, I should like to ask the gentleman in charge of the bill to explain that item just read.

Mr. HEMENWAY. For canceling machines?

Mr. OVERSTREET. To pay some one for canceling machines, lines 15 to 18, inclusive. What I desire to know is whether that is a clear deficiency or whether the item has been passed upon by any Auditor.

Mr. HEMENWAY. I suggest to the gentleman that the item is an amount found due by the Auditor for the Post-Office Department, an audited account, and so certified.

Mr. OVERSTREET. Is it a certification, or simply a report from the Auditor?

Mr. HEMENWAY. It is a certification of an amount found due by the accounting officers of the Post-Office Department. If the gentleman thinks it ought not to be paid, a motion to strike it out is in order.

Mr. OVERSTREET. I do not want it stricken out if it is a proper item; but I should like to inquire of the gentleman whether or not the hearings before his committee disclosed the fact that this property was actually purchased at a proper price and is now in use?

Mr. HEMENWAY. I refer the gentleman to Document No. 236, and can only say that the Auditor certifies that the amount is due. As to whether the item was purchased at a proper price or not I do not know. We simply have that certificate of the Auditor of an audited account sent down for appropriation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Railway Mail Service: That the number of clerks appropriated for in the Railway Mail Service for the current fiscal year is modified so as to allow 1,185 clerks of class 5, at $1,400 each; 1,671 clerks of class 4, at $1,200 each; 857 clerks of class 4, at $1,100 each; and 3,928 clerks of class 3, at $1,000 each: *Provided*, That this change shall be made without increasing the aggregate sum of money appropriated for clerks of the several classes of the Railway Mail Service in the post-office appropriation act of March 3, 1903.

Mr. OVERSTREET. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 52, line 21, strike out all after the word "allow" down to and including the word "each," in line 3, page 53, and insert in lieu thereof the following:

"Two thousand six hundred and fifty-six clerks of class 2, at not exceeding $900 a year each, and 780 clerks of class 1, at not exceeding $800 each.

The amendment was agreed to.

The Clerk read as follows:

Pay of laborers at division headquarters, rural free-delivery service, $205.44.

Mr. OVERSTREET. Mr. Chairman, I would like to ask the gentleman in charge of the bill to give some explanation in reference to the pay of laborers at these division headquarters.

Mr. HEMENWAY. Why, it was by some oversight in the classification of the employees of the Department. I will give Mr. Bristow's explanation. You will find this on page 163 of these hearings:

In the last post-office bill there was an appropriation for six clerks, at $700. Formerly they had been laborers, at $700. I suppose in the provision that it was just intended to make them clerks instead of laborers, but the Comptroller has decided differently, and the Civil Service Commission would not classify them. So they were dropped out and new clerks had to be put in their places. These clerks had worked until this much money was due them before we knew that.

In other words, this appropriation bill provides for the pay of these laborers who were used as clerks. The laborers went ahead and did the work, and it was ascertained that they were not allowed the salary until the bill was passed by Congress or is reported by the Post-Office Committee. So we pay these clerks for the time they did the work. This appropriation is necessary.

The Clerk read as follows:

To pay amounts found due by the accounting officers of the Treasury and certified in House Document No. 366 of this session on account of the rural free-delivery service for fiscal years, as follows:

For the fiscal year 1902, $846.75.

For the fiscal year 1903, $21,026.37.

Mr. OVERSTREET. Reserving the point of order, I would like to inquire of the gentleman in charge of the bill if these items have been certified by the Auditor?

Mr. HEMENWAY. I call the gentleman's attention to the reading of the bill.

Mr. OVERSTREET. I know the bill says they have been certified.

Mr. HEMENWAY. You will find that they have been audited by the accounting officers of the Treasury and certified in House Document 366 of this session, on account of free rural-delivery service for the fiscal year. I refer the gentleman to the document for the information.

Mr. OVERSTREET. The gentleman has the document in his hand. What I want to know is whether or not Document 366 says that they have been certified by the proper accounting officers who have passed on the facts and know the facts, or whether it is simply the report of an officer that they need the money? If it is a certification then I have no objection.

Mr. HEMENWAY. The bill so states.

Mr. OVERSTREET. The bill so states, but what does the report say?

Mr. HEMENWAY. Well, I suggest to the gentleman that it would not so state in the bill unless it was found that it was true as was stated, and if the gentleman still makes further inquiry I refer him to the document to which I have heretofore called attention. It is Document 366. Mr. Chairman——

The Clerk read as follows:

HOUSE OF REPRESENTATIVES.

For mileage of Members of the House of Representatives and Delegates from Territories for the second session of the Fifty-eighth Congress, $145,000.

Mr. HEMENWAY. Before that is read——

Mr. MADDOX. I make the point of order on that.

Mr. HEMENWAY. I tried to stop the Clerk in the reading of the paragraph before we got to it.

Mr. MADDOX. It is understood that I reserve the point of order.

Mr. HEMENWAY. I tried to stop the reading, but did not succeed in doing it. I would like to have the attention of the House. Before the words "House of Representatives," on page 58, before line 1, I ask unanimous consent that the following be inserted, simply to correct the bill before we come to this item.

By an oversight in preparing the bill, or printing the bill, the mileage for the Senate was left out. Now, that ought to go into the bill, so that the point of order can be made against the whole item—the two items taken together—and any discussion that may occur may be made on the whole item under consideration.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the amendment which he sends to the Clerk's desk may be inserted before line 1.

The Clerk read as follows:

On page 58, before line 1, insert the following:

"SENATE.

"For mileage of Senators for the second session of the Fifty-eighth Congress, $45,000."

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. I move to strike out the entire paragraph.

The CHAIRMAN. The gentleman from Georgia made the point of order against this paragraph.

Mr. LITTLEFIELD. I had risen for the same purpose. Does the Chair recognize the gentleman from Georgia?

The CHAIRMAN. The Chair had recognized the gentleman from Georgia upon the conclusion of the reading of the paragraph to make the point of order against the paragraph.

Mr. MADDOX. Mr. Chairman, I am aware of the fact that this point of order was raised to a similar section in an appropriation bill in the Fifty-third Congress.

The CHAIRMAN. Will the gentleman from Georgia answer the Chair a question for information? The Chair understands the gentleman's point of order includes the amendment offered by the gentleman from Indiana, and also the paragraph that has just been read.

Mr. MADDOX. Yes, sir.

The CHAIRMAN. The paragraph as amended with the provision for mileage for the Senate.

Mr. MADDOX. I say, Mr. Chairman, I am aware of the fact that a decision was made by the Chairman of the Committee of the Whole in the Fifty-third Congress holding that this same pro-

vision was in order at that time. I, Mr. Chairman, am not satisfied with that decision—at least, with the reasons given when the decision was rendered.

It may be that it is not subject to the point of order, but certainly the reasoning given there, or, in other words, the begging or dodging the question, as it seems to me, does not carry conviction to my mind or to anybody else, I think, who has given due consideration to this ruling, that it is at all conclusive and that this could stand as a precedent. I would like for some chairman to give a better reasoning for it. Now, the reason given in that opinion was simply this: Mr. Hayes, I believe, of Iowa, at that time argued against this point of order that was made by Mr. Lynch. The Chair, ruling upon that point, said that inasmuch as we had diverted the sum originally appropriated for the regular session of Congress to be used, or, in other words, had made it available in the extra session, therefore that there being no question about the present session being a regular session, just as in this present instance a regular session, that we were entitled to the mileage of that regular session.

Thereupon the Chairman decided that point—the point of order not well taken. He did not take into consideration when he decided the point as to whether the amount or the sum that had been appropriated for the regular session had been diverted to the extra session for which we were not entitled. They proposed to bolster up the decision by getting a letter from the Auditor at that time. The Auditor also dodges the question and says this thing being a regular session that they are entitled to the mileage. We all know that. The statute is perfectly plain upon that subject, that each regular session we are entitled to the mileage. The question is, though, are we, when we divert the regular mileage for the payment of a special or extraordinary session, to be allowed to come in here now and appropriate for a regular session when we have taken the mileage from the regular session, put it in our pockets, and have spent it.

Now, that is the question I want to hear the Chair rule on. I apprehend that the Chair probably will have some trouble upon this point—that is, the question as to whether the extraordinary session merged into the regular session and made one continuous session, or, in other words, whether there was any length of time between the extraordinary session and the regular session by which we can claim that there have been two sessions of Congress. Now, so much for that point of order. Now the question is, if I may be permitted to go forward on this line, Is it expedient, gentlemen, to pass this resolution giving to ourselves this extra money?

Mr. GROSVENOR. Mr. Chairman, if the gentleman will yield to me for a moment, I want to ask unanimous consent to offer an amendment to the item under consideration.

Mr. MADDOX. All right.

Mr. GROSVENOR. And let it be pending to the proposition which the gentleman is now discussing.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to have pending, subject to the point of order——

Mr. GROSVENOR. Certainly.

The CHAIRMAN. An amendment, which the Clerk will report.

The Clerk read as follows:

Provided, That any Member of the Congress so desiring may cover any money due to him as a part of this appropriation into the Treasury, and it shall be received by the Secretary of the Treasury as a miscellaneous item.

[Applause.]

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? The Chair hears none.

This question does not involve the merits of the proposition, and the Chair hopes that gentlemen will confine themselves to a discussion of the point of order.

Mr. MADDOX. I would like to be heard on the merits, too.

The CHAIRMAN. There will be an opportunity for that, possibly, if the paragraph is retained in the bill.

Mr. MADDOX. I have often, not only in this House, but in other legislative bodies, heard that cheap amendment offered, such as has been offered by the gentleman from Ohio, before. I know I need not draw this money without the amendment, so far as that is concerned. I can exercise that right without any advice from the gentleman from Ohio or even of this House. That is my privilege to do, and it is my privilege to take it if I wish after this House has determined that it is legal. I am not proposing to set myself up here as better than any other Member of this House or that my judgment is better than anybody else's.

I want to say to the Chair that the Fifty-third Congress was not the first time that this question has been presented to the Congress of the United States. On more than two occasions that I know of—in which the records will bear me out—this proposition was voted down. As I say, the point is whether this is a regular session or an extraordinary session, or whether the extra session is merged into the regular session.

The CHAIRMAN. Does the Chair understand the gentleman from Georgia that if this is a regular session—the second session of the Fifty-eighth Congress—then there is authority of law for the appropriation carried by this paragraph?

Mr. MADDOX. The point I make to the Chair is simply this, that the appropriation made for the regular session was diverted to the special session, and the question now is as to whether this clause in the bill making a new appropriation for mileage for the regular session when we have already received that sum which was appropriated for the regular session. In other words, can we draw mileage for an extra session which was appropriated for the regular session and then vote ourselves another mileage for the regular session?

Mr. LITTLEFIELD said: Mr. Chairman, if in order, I would like to make a few suggestions in support of the point of order. I wish to state at the outset, Mr. Chairman, that I have not a word to say about the propriety or the impropriety of the pending proposition. Whether, if it reaches that stage, Members vote to pass the bill as it stands or vote to strike out the proposition is a question for every single individual Member, and I do not think he is to be criticised or reflected upon, either directly or indirectly, by any Member of the House. It is purely a personal proposition. I shall not spend a moment on the merits, or morality, or equity of the appropriation. In my judgment—of course I may be wrong—the appropriation is not authorized by existing law.

The appropriation provides for mileage for the second session of the Fifty-eighth Congress, and, in my opinion, the only question raised by the point of order, or that can properly be raised or debated in committee is whether or not this is a second session of the Fifty-eighth Congress, or whether we are now in the first session of the Fifty-eighth Congress.

The history of the situation is simply this: During the last term of Congress an appropriation was made for mileage for the Congress that would meet on the first Monday of December, 1903. Congress met on the 9th day of November, 1903, under a call of the President for what may be termed and sometimes is termed a "special session," or an "extraordinary session"—and I may say right here that the Constitution does not recognize any distinction between sessions; it does not refer to a regular session or a special session or an extraordinary session.

What is termed popularly a "regular" session, to be sure, begins on the first Monday of December of each year, because, unless otherwise provided, that is when Congress assembles. Congress is assembled when an extraordinary occasion exists under the proclamation of the President, and Congress did then assemble as the Fifty-eighth Congress. It is not mentioned in the Constitution as an "extraordinary" or "special" or "extra" session. It simply says "he may, on extraordinary occasions, convene both Houses, or either of them."

When this Congress met on the 9th day of November, or shortly after, by joint resolution, very properly it diverted the appropriation for mileage made for the Congress that was to meet on the first Monday of December, 1903, to the payment of the mileage of the Congress that met on the 9th day of November, 1903. But it left no appropriation for mileage for this Congress, assuming now that there is a distinction between the two sessions.

The precedent referred to in the Firty-third Congress is not in the slightest degree in point. It hasn't anything to do with the case pending here, because there was in that case two separate and independent sessions. The law now provides that an appropriation for mileage can be made for each regular session, and the only question is whether the session we are now engaged in is a regular session. It does not make any difference how many days of the session we have had or how short the interregnum was, if there was an interregnum, we are entitled to mileage for the regular session, in my judgment, nor if that is the fact do I see any legal reason why a man should be criticised for voting for it.

There is no question but that Congress has the power to appropriate or divert the mileage appropriated for a session beginning on the first Monday of December to one beginning on the 9th day of November.

Then the question recurs, there being no appropriation for mileage in addition thereto, will it now appropriate for mileage for the session that is alleged to have begun on the first Monday of December?

That raises the specific question as to whether or not we are now in a continuous session or whether there are clearly two sessions. If two sessions, this appropriation is correct; it is authorized by existing law and it ought to be made, and every man can properly receive it. Now, if there is a continuous session, then there is only one session, then there is no law that authorizes the appropriation of two mileages for any one session. What is mileage for a session? Mileage, I take it, is the sum that enables a Member of Congress to attend at the beginning and return to his home at the end of a session of Congress. Everybody concedes, no matter what the other facts may be, that in this case

this Congress, or, at least, Congress, did meet on the 9th day of November, 1903, and continued its session, in any event, until 12 o'clock noon on the 7th day of December, 1903, so that, of course, as a matter of fact, the mileage extended until that time.

We were paid for coming here on the 9th day of November, and we were paid for returning on the 7th day of December at 12 o'clock, and if there is an interregnum we would equally be entitled to pay under existing law for returning at the same 12 o'clock to attend the regular session. In my judgment the only question is, Is there one continuous session or, under the circumstances, are there two? In other words, is there an interregnum? In my opinion, and I may be wrong about it, there was no interregnum. Under what circumstances does Congress meet? What calls it together? Well, the provisions of the Constitution: and what are they? In the first place, this provision, which provides:

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different date.

In this case Congress has not by law appointed any different date, so that, so far as the discussion at this stage is concerned, that does not disturb us; but there is another way by which Congress can constitutionally meet. That is provided for in section 3 of Article II, prescribing the duties of the President:

He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper.

That is not a final adjournment, but simply an adjournment "to such time as he shall think proper." On extraordinary occasions he can call Congress in session. It is not an extraordinary session by the language of the Constitution, it is not an extra session by the language of the Constitution, but the extraordinary occasion intervening, then the President can exercise the power to call, for instance, the Fifty-eighth Congress into session. Congress having been constitutionally called to meet on the 9th day of November, 1903, and being in session, its session can not be terminated and ended except in one of two ways. What are they? First, by adjournment of the body itself; second, by operation of law.

The only question here is. then, whether after the 9th day of November, 1903, Congress had adjourned, in the first instance, on its own motion. Everybody concedes that it had not. There has not been any attempt to adjourn without day finally from that time until to-day. The only other question left is, Was Congress terminated by operation of law? because that is the only other way by which it can be terminated, and that brings us to this proposition: Does the fact that the Constitution requires Congress, if it is not in session, to meet on the first Monday in December of itself terminate a Congress that is then in session? In my judgment, it does not. What is the purpose, object, and intent of that provision of the Constitution, and its only purpose, object, and intent? Simply to call Congress together in order that it may be in session as a Congress. It is simply for the purpose of calling it together.

The Constitution designates a specific day in order that Congress may "assemble *at least once in every year.*" The assembling "*at least once* in every year" is the real essential and sole purpose of the specific constitutional day of meeting.

Now, Congress was already together and in session when that time intervened. It met on the 9th day of November, 1903, and it continued in session, and there was no occasion for it to meet in order to begin session, because it was here in session. The only purpose that can be accomplished by this provision of the Constitution as to the time of meeting is to cause Congress to meet and begin a session. That is its only purpose and object. In this instance, on the 7th day of December, 1903, this provision had nothing upon which to operate, as the Fifty-eighth Congress had already met and was then in session. The object of this provision had already been accomplished. The Fifty-eighth Congress had already assembled "*at least once*" in the year 1903, and the only essential mandate of the Constitution had been obeyed. It is a familiar legal principle that when the reason for a law fails. the law fails and the rule ceases to operate. If the Fifty-eighth Congress had not been in session when the hour of 12 o'clock noon, December 7, 1903, arrived, it would have been its duty to meet and begin its session; but it had no occasion to meet for that purpose, either constructively or actually, because it had already met and was in session.

How can it with any propriety be said that it is the duty of Congress to meet when it has already met? It is a legal absurdity to say that a body that is in session, must meet either constructively or actually, in order to be in session. In order to hold that the session of the Fifty-eighth Congress, which began on November 9, 1903, terminated by operation of law at 12 o'clock noon December 7, 1903, it must be held that although the Fifty-eighth Congress was in full constitutional session at 12 o'clock noon on that day, it was terminated and the session ended in order that, at the same instant of time, the same Congress should be in like full constitutional session—being in session, by operation of law, by one act, and at the same moment of time a session is ended and begun in order that it may be in session when, as a matter of fact, the session is actually continuous. What is there to justify the assertion of this extremely finical and attenuated technical legal proposition? This constructive termination of a session hardly approaches the dignity of a legal fiction, and the law abhors a fiction. It may perhaps tolerate a fiction in order to accomplish some substantial purpose that can not be attained in any other way, but not otherwise. Here the fiction was entirely unnecessary, as the essential result, a session "at least once in every year," had been, already achieved. What is there about the Fifty-eighth Congress, that would have assembled at 12 o'clock noon December 7, if it had not already been assembled, that differentiates it from the same Fifty-eighth Congress that met November 9? Absolutely nothing. Has the latter any constitutional power not possessed by the former? None. Can it do anything that the other could not do? Nothing. Is there any legal reason why one is superior to or supersedes the other; why the former should give way to the latter? Absolutely none.

It must be borne in mind that these provisions of the Constitution relating to calling sessions of Congress are in no sense analogous to the by-laws of a corporation providing for the calling of meetings of the corporation. If they were, the provisions requiring Congress to meet on the first Monday of December might be thought parallel to the by-law providing for the annual meeting of the corporation at which officers are to be elected, and such other business transacted as may be specified in the call. Unless so specified, no other business can be transacted. The call for a special meeting of a corporation must specify the business to be transacted at the meeting, and the usual business of the annual meeting, such as the election of officers, could not be transacted at such meeting, because such business is by the by-laws to be considered at a specific meeting, and notice thereof would not be given in the call.

In the case of Congress, however, whether called by the President under the Constitution or meeting at the time specified in the Constitution or at the time appointed by Congress under the Constitution, it meets with the same plenary powers, and is in no sense limited or restrained as to the acts which it can do, by the time when, or the manner in which, it is called together, and there is, therefore, no legal reason why the Fifty-eighth Congress, meeting at the time fixed by the Constitution, in session at noon on December 7, can be held to displace or supersede the Fifty-eighth Congress in session at and prior to that time, meeting equally at the time fixed by the Constitution by virtue of the President's call. In order to overrule the point of order some such legal reason must be given. How is it that Congress, that has the power to change the time fixed for meeting by the Constitution, has not the power to continue its own session beyond the time thus fixed? It has elected to so continue it in this instance.

For the purpose of testing the principle, let us assume that the legislative day of December 5 extended without any recess until 12 o'clock noon on the 7th, at which time a roll call was in progress. Would the roll call be stopped and the session ended because if Congress had not met and was not in session it would have met at that time? If continuing after 12 o'clock, must Congress stop its business and, although it continues to sit, begin anew the consideration of the measure pending, or at least begin a new roll call? This would be the result if the session ended, as that would end the consideration of business pending. Will the Chair hold that a roll call could not be completed under such circumstances, and would not such a holding involve a palpable legal absurdity? The assumed condition might easily occur and is clearly involved in the operation of the proposition, and the Chair must so hold, I submit, in order to overrule the point of order.

So far as the action of Congress is concerned upon this question, the records disclose the following facts: The second session of the First Congress adjourned to meet on the first Monday of December next, which was the constitutional day. The Journal of the session that met on that day shows, however, that they met "on the day appointed by the two Houses for the meeting of the present session," instead of on the day appointed by the Constitution therefor.

In the following instances Congress met in session by virtue of the date fixed by it, by law, under the provision of the Constitution allowing them "to appoint a different day," and continued in session beyond the day that Congress would otherwise have met, as provided in the Constitution, on the first Monday of December:

The first session of the Second Congress;
The second session of the Second Congress;
The second session of the Third Congress;
The second session of the Fifth Congress;
The second session of the Sixth Congress;

The second session of the Eighth Congress;
The second session of the Tenth Congress;
The second session of the Eleventh Congress;
The second session of the Twelfth Congress;
The second session of the Fifteenth Congress; and
The second session of the Sixteenth Congress.

I do not contend, may it please the Chair, that these meetings of Congress under these circumstances are precisely in point upon my present contention, because Congress met then at the time fixed by law, which eliminated, under the terms of the Constitution, the constitutional time fixed for the meeting. But there are other instances that are precisely in point. In the following instances Congress was called in session by a proclamation earlier than the day fixed by the Constitution, and continued in session on that day and beyond that day without making any reference to that date or taking any notice of it, and there was no intimation that Congress was instantaneously adjourned and convened by operation of law:

The first session of the Eighth Congress, the first session of the Tenth Congress, the first session of the Twelfth Congress, and the third session of the Thirteenth Congress. Here are four cases in which Congress, if it may please the Chair, in the early history of the Republic gave a contemporaneous construction of this constitutional provision, and every one of them in the line of, and in harmony with, our contention sustaining the point of order. It is well settled that early and practically contemporaneous construction by legislative action is entitled to much greater weight than action that is remote.

The CHAIRMAN. Will the gentleman from Maine state whether or not any question whatever was raised in the cases he refers to as to the termination of the sessions preceding the regular sessions?

Mr. LITTLEFIELD. Not as the records disclose. In those cases the question was not even raised. The men in the early days of the Republic assumed that when Congress, called in session by the proclamation of the President, continued beyond the constitutional time otherwise fixed, that it was a continuous session and made one session, and the question was not even raised or suggested.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman from Maine permit one question?

The CHAIRMAN. Does the gentleman from Maine submit to an interruption?

Mr. LITTLEFIELD. Certainly.

Mr. COOPER of Wisconsin. I have not heard all of the gentleman's argument, but this occurs to me as being a pertinent question: All of the bills, all of the resolutions of this session, all of the Journals, are as of the second session?

Mr. LITTLEFIELD. Yes.

Mr. COOPER of Wisconsin. The second session of the Fifty-eighth Congress. How can there be a second session of a body which has not had a first session completed?

Mr. LITTLEFIELD. I will answer that question by asking another one. How can the clerks of the House or the officers of the House change a principle of constitutional law by labeling the bills or the records or the Journals of the House? Of course it tends to show what their opinion was, but in my judgment they can not thus change the constitutional law.

Mr. LIVINGSTON. On the line of your argument I want to bring this to your attention: Suppose this Congress now in session should continue until the first Monday in next December, up until 12 o'clock, and then proceed on until the 4th day of next March. Mileage being a sessional appropriation and not an annual appropriation, what would be your opinion as to the mileage for the next session?

Mr. LITTLEFIELD. The same proposition would apply to it. There would not be any next session so long as this session continues in session, without an adjournment or without a termination by operation of law.

Mr. GAINES of Tennessee. I should like to ask the gentleman——

The CHAIRMAN. Does the gentleman from Maine yield to the gentleman from Tennessee?

Mr. LITTLEFIELD. I should be glad to do this, if the gentleman will allow me: I should like to conclude the suggestions that I have to make and then I will answer any questions.

The CHAIRMAN. The gentleman declines to yield.

Mr. LITTLEFIELD. Now, I want to call the attention of the Chair to the fact that we not only have four Congresses between the Eighth and the Thirteenth where the construction that is now suggested was adopted, I concede without question or controversy—and I certainly have no desire to mislead any Member on this proposition—we not only have four Congresses in the early history of Congress, but we have two cases where Congress has substantially by its action adopted this proposition. The first is the Fortieth Congress. The first session of the Fortieth Congress met as appointed by law on the 4th day of March, 1867, and was in session on November 26, 1867, when the following resolution was presented in the Senate by Senator Grimes, of Iowa:

Resolved by the Senate (the House concurring), That the President of the Senate and the Speaker of the House do adjourn their respective Houses without day on Monday, the 2d of December next, at half past 11 o'clock a. m.

Senator Sumner moved to amend the resolution by making the hour 12 o'clock, giving as a reason that Congress might not safely adjourn, for even so small a time, lest the President, who was thought by him to be unpatriotic, should improve the intervening time to issue commissions. He thought, therefore, that one session should come close up to the other, and that one should end when the other began.

His amendment was agreed to and the resolution as amended was adopted, and in pursuance thereof on Monday, the 2d of December, the presiding officers of the two Houses declared the Houses adjourned without day at 12 o'clock, and immediately thereafter they were called to order in the second session, and the roll was called by States.

Now, I ask the Chair to note this: If it had been true that by operation of law that Congress would have expired at 12 o'clock noon, was it necessary to adopt a concurrent resolution providing for adjournment at that time? Clearly not. Evidently the men who were in the Senate, Senator Sumner and Senator Grimes, assumed that without such action on the part of the Houses adjourning at that time Congress would have continued by operation of law, because otherwise there would have been no occasion for the adoption of the resolution.

Now let me go a little further, because it assumes the correctness of the legal proposition on which we rely. On October 15, 1877, the Forty-fifth Congress met in special session on the call of the President and remained in session until the first Monday in December, the day appointed by the Constitution for the regular assembling thereof. On Saturday, December 1, Mr. Fernando Wood, of New York, offered the following resolution, which was adopted by the House:

Resolved (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, directed to adjourn their respective Houses without day at 3 o'clock p. m. this day.

Thereafter on that day the House took a recess until 10 o'clock a. m. of the calendar day of Monday, December 3, the day prescribed by the Constitution for the meeting of the regular session of Congress. The Senate took a recess on the same day to the same hour on December 3. At that time—December 3, at 10 a. m.—immediately on the approval of the Journal of the Senate, Mr. George F. Edmunds, of Vermont, offered this resolution, which was agreed to without debate:

Resolved by the Senate (the House of Representatives concurring), That it is the judgment of the two Houses that the present session of Congress expires by operation of law at 12 o'clock meridian this day.

That resolution, I state frankly to the Chair, is precisely in point against our contention. It was adopted in the Senate without debate; it was concurred in by the House without debate, and so far as the record discloses without the slightest consideration, investigation, or deliberation. It was, at the most, purely academic. Although Senator Edmunds was a great lawyer, in the hurry and turmoil of that stage of a session, so far as we know, the resolution may have been drawn on the spur of the moment, and may not express his well-considered opinion. But there is other action taken in the same Congress that is absolutely inconsistent with this academic declaration upon the law relating to the ending of the session of Congress.

The Senate went on after that, after this resolution had been agreed to, the resolution in relation to the declaration of the law—after that resolution had been agreed to the Senate took up the former resolution of the House as to adjournment, disagreed to it, and adopted an amendment striking out "3 o'clock p. m. this day" and inserting "11.50 a. m. the 3d of December instant," and the House concurred in the amendment. Then the Houses agreed to the usual resolution authorizing the appointment of a committee to notify the President of the United States that Congress had adjourned, and the Speaker then declared the House adjourned.

Now, I ask the Chair to note this when he comes to rule upon this question. Here is an academic resolution that passed the Senate and passed the House without debate, without deliberation, a resolution that accomplished nothing, resulted in no action of any kind; and after the passage of that resolution, although that resolution declared that Congress would expire by constitutional limitation by virtue of law, after the adoption of this resolution the two Houses, placing no confidence in their own declaration, not relying upon their legal proposition, passed the joint resolution adjourning Congress, and then adjourned in pursuance of the resolution without day and met in the next session after ten minutes. But if their academic resolution had been sound law, they would have adjourned, or the session would have terminated by opera-

tion of law, without their last resolution. If their first resolution was sound, why clearly the second was unnecessary and entirely a work of superogation. While their dictum is against us their decisive legal action the only precedent established, is by obvious construction, precisely in point in our favor.

So I call the attention of the Chair to the fact that there is no adverse legal precedent in the history of the Congress of the United States, and I challenge the production of one that can in any sense militate against the proposition suggested in behalf of this point of order. On the other hand, every precedent sustains it. These two cases to which I have called the attention of the Chair by necessary implication adopt the legal proposition relied upon to sustain this point of order. The action of Congress during four Congresses during the early part of its history adopted this theory without any question.

As I have said, Mr. Chairman, I simply present this as a legal proposition. I have not the slightest feeling about it one way or the other. I believe, my own judgment is, that as a matter of law this appropriation for this session, one appropriation already having been made for this session, is not authorized by any existing law. I do not believe, inasmuch as this Congress never has undertaken to adjourn, that it has been terminated by the operation of any such finical, attenuated, unsubstantial, technical legal proposition as that suggested, and which must be relied upon in order to establish the alleged interim, and therefore I believe, Mr. Chairman, that the point of order should be sustained.

Mr. GAINES of Tennessee. Will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Maine yield to the gentleman from Tennessee?

Mr. LITTLEFIELD. Certainly.

Mr. GAINES of Tennessee. I have been very much interested in the gentleman's argument and now will ask him if an "end" to a session of Congress is not contemplated by this provision of the Constitution. I read from the Constitutional Manual, page 23:

> The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

The word "end" is here used—"end of their next session"—that is, the Senate at least.

Now, suppose the President during the interim made a temporary appointment during the "recess," and the Senate refused (I do not allude to any particular case) to ratify the nominations thus made—two-thirds not voting, but a majority of the Senate or a majority of the Congress should force a continuous session—does the Constitution allow the Senate or Congress to do this? This would allow the President to foist upon the country temporary appointees whom the Senate—two-thirds—refuse to indorse, ratify.

Couple this provision of the Constitution with the other, "Congress shall meet once every year," are we not forced to conclude that sessions of Congress are ended by the Constitution and must in law at least begin and end sessions, and that Congress must meet "once every year" and must therefore end its sessions at least once "every" year, otherwise great confusion would follow.

Mr. LITTLEFIELD. That is assuming that Congress continues in session during the whole two years.

Mr. GAINES of Tennessee. Yes; that it just continues along.

Mr. LITTLEFIELD. Of course that would be a very violent assumption. Now, I am very glad to hear the gentleman state that he does not understand that there is any particular case to be affected by his interrogation.

Mr. GAINES of Tennessee. No; not at all, I assure the gentleman.

Mr. LITTLEFIELD. I have perhaps an indefinite impression there may be other cases pending elsewhere that might be affected by any suggestion we might make, and far be it from me to make any suggestion or reflection——

Mr. GAINES of Tennessee. Oh, no; I do not desire that at all.

Mr. LITTLEFIELD. As I was saying, far be it from me to express any opinion upon a hypothetical proposition which might be construed directly or indirectly as a reflection upon another branch of Congress—a coordinate branch of this great body.

Mr. GAINES of Tennessee. I am afraid that if that remained as the law of the land and Congress were opposed to the President it could go along and refuse to confirm nominations of the President until many public and high offices would be filled by temporary or recess appointments, condemned by two-thirds of the Senate refusing to confirm them. This would be deplorable, but continuous sessions would do this very thing, it seems to me.

Mr. LITTLEFIELD. That is just exactly what Congress did in 1867, when they adjourned at 12 o'clock noon. They did adjourn by their own action, and they accomplished the very purpose which seems to fill my friend with apprehension. I say it is possible for Congress to do it in that way also. I have no doubt of its power to accomplish the result in that way.

Mr. GAINES of Tennessee. The President has certain rights under the Constitution, and this is one of them, and Congress, by acting in the way you say, might rob the President of his Executive prerogative.

Mr. LITTLEFIELD. That was a matter for that Congress which sat then, and I will not waste time commenting upon that or expressing an opinion as to the propriety of the action. That is what it did, and it is what they could do again.

Mr. SHERLEY. I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Maine yield to the gentleman from Kentucky?

Mr. LITTLEFIELD. Certainly.

Mr. SHERLEY. The gentleman cites the Forty-fourth Congress. Was it necessary for that Congress to adjourn by joint resolution because it could not continue, owing to the fact that so far as some Members of both Houses were concerned their term of office had expired?

Mr. LITTLEFIELD. Well, your question might apply to the Senate, because the term of a Member of the House could not expire at irregular periods, of course.

Mr. SHERLEY. Say the 4th of March.

Mr. LITTLEFIELD. That might apply to the Senate. Well, the 4th of March would not involve the proposition so far as the first Monday in December is concerned, because it is too far removed from it.

Mr. SHERLEY. But it might apply so far as the Senate was concerned.

Mr. LITTLEFIELD. Well, you would hardly have a continuous session of the Fifty-eighth Congress after it had expired by constitutional limitation and the Fifty-ninth had come in. You could not get together the Fifty-ninth Congress by calling it during the period of the Fifty-eighth.

Mr. SHOBER. Mr. Chairman, will the gentleman yield to me?

Mr. LITTLEFIELD. Certainly.

Mr. SHOBER. Suppose by any chance—this being a hypothetical question also—suppose the President of the United States should call or had called, as he did, the Senate in special session, and had called the whole Congress of the United States together on March 5, and this Fifty-eighth Congress had remained in special session for two whole years, until the terms of the Members of the Congress had expired. I would like to ask the gentleman in that case what sort of a session it would be, and how it could be reconciled with the provision of the Constitution that there shall be two regular sessions, beginning on the first Monday of December?

Mr. LITTLEFIELD. I think when the Constitution of the United States requires that Congress shall assemble at least once in every year, that if it is assembled on every one of the 365 days it has assembled at least once in that year. Three hundred and sixty-five days would be 365 times once.

Mr. SHOBER. Then, Mr. Chairman, I would like to ask, in that event, how could you have two sessions when there is a continuous session from one end to the other?

Mr. LITTLEFIELD. I beg the gentleman's pardon; I do not think that necessarily follows.

Mr. McDERMOTT. Will the gentleman from Maine yield to me for a question?

Mr. LITTLEFIELD. With pleasure.

Mr. McDERMOTT. I understand the contention of the gentleman from Maine to be that we are now in the same session that we were in in November?

Mr. LITTLEFIELD. Yes.

Mr. McDERMOTT. My understanding of the Constitution is that there are two kinds of sessions of Congress. One what might be called the President's session, the other the constitutional session. The constitutional session has this provision in the Constitution, that neither House shall adjourn for more than three days without the consent of the other. Now, the session of Congress which I may designate as the Presidential session is under the control of the Executive. I call the gentleman's attention to page 23, section 3, of the book that he has in his hand.

On extraordinary occasion on which the President may convene both Houses in case of disagreement between them in respect to the time of adjournment, he may adjourn them to such time as he shall think proper. Now, if there has not been in its relation to the Executive any change in the session—in other words, if it is not another sitting as contemplated by the Constitution—then the President can adjourn Congress to-day to such time as he think fit, if there be a disagreement.

Mr. LITTLEFIELD. I will say this, because I think it is a pertinent and proper question. I will say that I do not think that clause has special reference, or is confined, to an extraordinary session, so called. It certainly is not confined to the special or extraordinary session in terms. I see no reason why it should

be confined to the special session. A deadlock in what may be termed a regular session is attended by the same inconveniences as a deadlock in a special session; and if it is important to remove it in one case it is equally important in the other.

If it was within the power of the President to adjourn the special session without day, and thus produce a recess or an interregnum between what you may call his session and the so-called regular session, I can see force in confining it to the special session. But this power is not conferred upon him. In that case it would be applicable to the special session, because it might be said that he had in that event the power to destroy what he had created. But he has no such power, and therefore no such reason applies.

There is no such thing as an extraordinary session. The Fifty-eighth Congress meets when an extraordinary occasion exists upon which the President bases his call. But if the contention of the gentleman from New Jersey applies, unless it creates a constitutional distinction between the two sessions it does not affect the proposition pending before the House. Why? Because it does not give him the power to adjourn Congress without day, and that is the question involved here, whether this Congress has ever adjourned without day. It is a matter of very little consequence whether he would still have the power in case of a disagreement between the two Houses to adjourn us from time to time. Does the gentleman get my idea?

Mr. McDERMOTT. I get the gentleman's idea, but it seems to me that it does not advance the argument. The President has no power to intervene unless the session is an extraordinary one. In other words, the President's session is to be held until they agree to adjourn, or until he tells them to adjourn. The question can not arise at a regular session. The President of the United States can not adjourn Congress as it is now constituted. We can remain in session for two years, from one session to another, and he can not adjourn it. Therefore the session which is called by the President of the United States has a constitutional distinction from that session which is called by the Constitution itself.

Mr. LITTLEFIELD. Where does the gentleman find in the Constitution that provision that undertakes to take care of the disagreement between the two Houses in a regular session, or isn't there any such provision?

Mr. McDERMOTT. Simply this, that you shall not adjourn for more than three days unless by agreement. It is not that you shall not adjourn for more than three days unless by agreement, provided that if you do not agree and the Executive thinks you should have agreed, he can fix the date of adjournment.

Mr. LITTLEFIELD. Does that apply to the regular session?

Mr. McDERMOTT. Why, no; but it does to the President's or extraordinary session.

Mr. LITTLEFIELD. Well, in the special session does the other provision apply to it?

Mr. McDERMOTT. In the special session you can not adjourn for more than three days without an agreement between the Houses. That would seem to apply; but if you do not agree to adjourn and the Executive desires to interfere, it being his session, he may interfere. Therefore, in the relation that we bear to the Constitution, there is an entirely different aspect between what is known as an extraordinary session and the session called by the Constitution. This was recognized last December by the President of the Senate when he adjourned the Senate. He declared that the Senate was adjourned by lapse of time. In other words, the Constitution having demanded that Congress shall meet on a certain Monday in December, that then meeting in accordance with that demand of the Constitution, Congress was then under the Constitution and not in a Presidential session under the direction and power of the Executive. That is the difference between the two propositions, in my view.

Mr. LITTLEFIELD. That is the difference between the two Congresses in the gentleman's view, as I understand it.

Mr. McDERMOTT. Yes.

Mr. LITTLEFIELD. Inasmuch as your suggestions involve the whole question I do not see how it tends to militate against the proposition, if I am correct in my reasoning.

Mr. THOMAS of Iowa. Mr. Chairman, I would like to ask the gentleman from Maine a question. Are we now in session on the call of the President or under the provision of the Constitution requiring us to convene on the first Monday in December?

Mr. LITTLEFIELD. I think we are in session, Mr. Chairman, by virtue of the provision of the Constitution that authorizes the President to call Congress in session on an extraordinary occasion.

Mr. THOMAS of Iowa. We are not in session under the authority of both. We must be in session either under the call of the President or under the constitutional provision.

Mr. LITTLEFIELD. Each has constitutional authority.

Mr. THOMAS of Iowa. Certainly; but we are not now in session under both, are we?

Mr. LITTLEFIELD. Oh, no; I do not think we are.

Mr. GROSVENOR. Well, which is it, then?

Mr. LITTLEFIELD. I think we are in session under the call of the President.

Mr. GROSVENOR. What became of the duty put upon us by the Constitution? Have we violated it?

Mr. LITTLEFIELD. No; that duty was already performed, and it was unnecessary to again perform it. Now, the law does not require a man to do an absurd or an impossible or an unnecessary thing.

Mr. THOMAS of Iowa. One further question. I apprehend, as we are proceeding now, unless the two Houses agree on a resolution to adjourn, we would continue in session until the 4th of March, next year, would we not?

Mr. LITTLEFIELD. Most certainly we would, either under a regular or a special session.

Mr. THOMAS of Iowa. If we could not agree on a time to adjourn in a special session, the President could adjourn us to some day in the future, could he not?

Mr. LITTLEFIELD. He may possibly adjourn us, under that provision of the Constitution, from time to time.

Mr. THOMAS of Iowa. Can he do it as we are now proceeding?

Mr. LITTLEFIELD. I do not see why not if we do not agree.

Mr. THOMAS of Iowa. Where is the constitutional power for that? I do not think there is any.

Mr. HEMENWAY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. TAWNEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 10954, the urgent deficiency bill, and had come to no resolution thereon.

REMOVAL OF SNOW AND ICE FROM THE STREETS.

Mr. McCLEARY of Minnesota. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Joint resolution (H. J. Res. —) to provide for the removal of snow and ice from the streets, cross walks, and gutters of the District of Columbia.

Resolved, etc., That the sum of $5,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available, for the removal of snow and ice from the streets, cross walks, and gutters in the District of Columbia; one half of said sum to be paid out of the revenues of the District of Columbia and the other half out of the Treasury of the United States.

The SPEAKER. The gentleman from Minnesota asks unanimous consent for the present consideration of the resolution which the Clerk has just read. Is there objection?

Mr. UNDERWOOD. Reserving the right to object, I wish to inquire whether this resolution has been referred to any standing committee?

Mr. McCLEARY of Minnesota. The resolution was considered by the subcommittee of the Committee on Appropriations having charge of the appropriations for the District of Columbia. I also conferred with a number of other members of the general committee, and hope that under the circumstances the measure will meet the prompt concurrence of the House.

Mr. UNDERWOOD. I will ask the gentleman whether the full subcommittee was in attendance and whether the report was unanimous?

Mr. McCLEARY of Minnesota. The subcommittee was present in its entire membership, except one; and the report was unanimous, both sides being represented.

Mr. UNDERWOOD. I should like to inquire whether this is the amount usually appropriated under these circumstances, or is it in excess of that?

Mr. McCLEARY of Minnesota. The amounts have varied all the way from $1,000 to $20,000. The Commissioners in this case asked for $10,000; but inasmuch as Congress is in session and can meet any succeeding emergency as it may arise, we concluded to recommend an appropriation of $5,000.

The SPEAKER. Is there objection to the present consideration of this joint resolution?

Mr. COWHERD. I should like to ask the gentleman from Minnesota whether there has not been a similar appropriation made this session?

Mr. McCLEARY of Minnesota. There has been.

Mr. COWHERD. Has that appropriation been spent? As I remember, the bill making the appropriation did not get through until after the snow had, to a large extent, melted.

Mr. McCLEARY of Minnesota. The gentleman is in error. That is very rare for him, and hence I take the liberty of mentioning it.

Mr. COWHERD. Has that appropriation been spent?

Mr. McCLEARY of Minnesota. I am advised by the president of the Board of Commissioners that the last of that money will

be expended this afternoon. It is for to-morrow and succeeding days that this money is needed.

The SPEAKER. Is there objection to the present consideration of this joint resolution? The Chair hears none.

The House accordingly proceeded to the consideration of the joint resolution, which was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. MCCLEARY of Minnesota, a motion to reconsider the last vote was laid on the table.

ENROLLED BILLS PRESENTED TO THE PRESIDENT.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 4115. An act granting an increase of pension to Joseph S. Young;

H. R. 2991. An act granting an increase of pension to Lydia A. Topping;

H. R. 5177. An act granting an increase of pension to William H. Clark;

H. R. 5005. An act granting an increase of pension to Worthington S. Lock;

H. R. 7002. An act granting an increase of pension to James S. Rearden;

H. R. 2616. An act granting an increase of pension to Joseph K. Welt;

H. R. 2690. An act granting an increase of pension to Thomas Kelly;

H. R. 2042. An act granting an increase of pension to Alvin B. Hubbard;

H. R. 1856. An act granting an increase of pension to Alexander H. Covert;

H. R. 3743. An act granting an increase of pension to Charles E. Foley;

H. R. 864. An act granting an increase of pension to Albert Moulton;

H. R. 2108. An act granting an increase of pension to Henry D. Wright;

H. R. 3000. An act granting an increase of pension to William C. Best;

H. R. 5197. An act granting an increase of pension to William C. Brown;

H. R. 661. An act granting an increase of pension to Elizabeth E. Meckly;

H. R. 3778. An act granting an increase of pension to Juliaetta Rowling;

H. R. 3821. An act granting an increase of pension to Hannah Padgett, now Riley;

H. R. 6975. An act granting an increase of pension to George W. Lawson;

H. R. 942. An act granting an increase of pension to James F. Hardy;

H. R. 1517. An act granting an increase of pension to George W. Hutchison;

H. R. 2188. An act granting an increase of pension to Richard L. Cook;

H. R. 2155. An act granting an increase of pension to Charles W. Bechstedt;

H. R. 4935. An act granting an increase of pension to Edward T. Miller;

H. R. 7370. An act granting an increase of pension to Andrew Ivory;

H. R. 5719. An act granting an increase of pension to Forbes Homiston;

H. R. 3001. An act granting an increase of pension to Alpheus Converse;

H. R. 5521. An act granting an increase of pension to Charles S. Clark;

H. R. 3013. An act granting an increase of pension to John A. Mavity;

H. R. 722. An act granting an increase of pension to Zechariah B. Stuart;

H. R. 6004. An act granting an increase of pension to William C. Lyon;

H. R. 6619. An act granting an increase of pension to Benjamin R. Little;

H. R. 6441. An act granting an increase of pension to Peter Fillion;

H. R. 3472. An act granting an increase of pension to Marcus E. Amsden;

H. R. 930. An act granting an increase of pension to Thomas M. Parkison;

H. R. 2472. An act granting an increase of pension to David F. Lewis;

H. R. 6830. An act granting an increase of pension to Charles E. Likes;

H. R. 4726. An act granting an increase of pension to Samuel B. Brightman;

H. R. 1184. An act granting an increase of pension to William F. Longenhagen;

H. R. 990. An act granting an increase of pension to Harrison W. Fox;

H. R. 1288. An act granting an increase of pension to Jason Stevens;

H. R. 907. An act granting an increase of pension to De Witt C. Parker, alias Clinton J. Parker;

H. R. 5246. An act granting an increase of pension to Sebastian B. Elliott;

H. R. 957. An act granting an increase of pension to Alonzo Carpenter;

H. R. 7666. An act granting an increase of pension to Laura F. Hine;

H. R. 4319. An act granting an increase of pension to John Sexton;

H. R. 895. An act granting an increase of pension to Margaret M. Walker;

H. R. 616. An act granting an increase of pension to Sarah S. Chrysler;

H. R. 2139. An act granting an increase of pension to James W. Kight;

H. R. 5841. An act granting an increase of pension to Abram Wilson;

H. R. 1908. An act granting an increase of pension to Harvey D. Barr;

H. R. 4200. An act granting an increase of pension to Milton H. Sweet;

H. R. 5464. An act granting an increase of pension to Francis M. Northern;

H. R. 5559. An act granting an increase of pension to Josephine C. Chase;

H. R. 4916. An act granting an increase of pension to Allen M. Pierce;

H. R. 6932. An act granting an increase of pension to Harvey R. King;

H. R. 5043. An act granting a pension to William H. Harrison;

H. R. 5010. An act granting a pension to Mary F. Hamilton;

H. R. 227. An act granting a pension to Margaret Cotter;

H. R. 2424. An act granting a pension to Emma Butler;

H. R. 196. An act granting a pension to Grace E. Carson;

H. R. 9292. An act in relation to business streets in the District of Columbia;

H. R. 7849. An act to authorize the county of Poinsett, in the State of Arkansas, to construct a bridge across the St. Francis River at or near the town of Marked Tree, in said county and State; and

H. R. 6804. An act providing for the appointment of a customs appraiser at Pittsburg, Pa.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 3317. An act authorizing the Secretary of the Interior to grant right of way for pipe lines through Indian lands—to the Committee on Indian Affairs.

S. R. 36. Joint resolution accepting a reproduction of the bust of Washington from certain citizens of the Republic of France and tendering the thanks of Congress to the donors therefor—to the Committee on the Library.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Foreign Affairs was discharged from the further consideration of so much of House Document No. 354 as refers to the claims of Ramon O. Williams and Joseph A. Springer; and the same was referred to the Committee on Claims.

LEAVE OF ABSENCE.

Mr. HULL, by unanimous consent, obtained indefinite leave of absence, on account of important business.

ADJOURNMENT.

And then, on motion of Mr. HEMENWAY (at 5.30 o'clock p. m.), the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Commissioner of Patents, submitting his annual report—to the Committee on Patents.

A letter from the Secretary of War, submitting a reply to the inquiries of the House relative to the use of horses and carriages in the War Department—to the Committee on Expenditures in the War Department, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MARSHALL, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 11128) to modify and amend an agreement with the Indians of the Devils Lake Reservation, in North Dakota, to accept and ratify the same as amended and making appropriation and provision to carry the same into effect, reported the same with amendment, accompanied by a report (No. 637); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ALEXANDER, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 1935) providing for the holding of an additional term of court in the northern district of West Virginia at Martinsburg, W. Va., reported the same without amendment, accompanied by a report (No. 638); which said bill and report were referred to the House Calendar.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 9640) to amend an act granting to the Keokuk and Hamilton Water Power Company right to construct and maintain a dam, etc., approved February 8, 1901, reported the same without amendment, accompanied by a report (No. 640); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 1909) to authorize the conveyance to the town of Winthrop, Mass., for perpetual use as a public road, of a certain tract of land, reported the same with amendment, accompanied by a report (No. 641); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. McCLEARY of Minnesota, from the Committee on the Library, to which was referred the concurrent resolution of the House (H. C. Res. 38) that the thanks of Congress be given to the people of Wisconsin for the statue of James Marquette, the renowned missionary and explorer, reported the same without amendment, accompanied by a report (No. 642); which said concurrent resolution and report were referred to the House Calendar.

Mr. JENKINS from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 9056) to permit United States marshals to delegate authority to sign official checks, reported the same without amendment, accompanied by a report (No. 643); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 486) granting a pension to Green B. Yawn, reported the same without amendment, accompanied by a report (No. 620); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2559) granting a pension to James Graham, reported the same without amendment, accompanied by a report (No. 621); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2809) granting an increase of pension to Jesse J. Finley, reported the same with amendment, accompanied by a report (No. 622); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 2418) granting a pension to Marit Johnson, reported the same without amendment, accompanied by a report (No. 623); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 9999) granting an increase of pension to William Edgar, reported the same without amendment, accompanied by a report (No. 624); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8185) granting a pension to Herman Lemmerman, reported the same with amendment, accompanied by a report (No. 625); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8648) granting a pension to Shadrach D. Bardin, reported the same without amendment, accompanied by a report (No. 626); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8173) granting an increase of pension to Anna Waters, reported the same without amendment, accompanied by a report (No. 627); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6951) granting an increase of pension to Charles G. Corr, reported the same with amendment, accompanied by a report (No. 628); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 7680) granting an increase of pension to De Witt C. Folsom, reported the same with amendment, accompanied by a report (No. 629); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 5030) granting a pension to William H. Mount, reported the same with amendment, accompanied by a report (No. 630); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 5879) granting an increase of pension to Bennett Putnam, reported the same with amendment, accompanied by a report (No. 631); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 3402) granting an increase of pension to Daniel Nagle, reported the same with amendment, accompanied by a report (No. 632); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4750) to place W. I. Jackson on the pension roll, reported the same with amendment, accompanied by a report (No. 633); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 1005) granting a pension to Marat E. Powell, reported the same with amendment, accompanied by a report (No. 634); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 880) granting a pension to Caroline S. Winn, reported the same with amendment, accompanied by a report (No. 635); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 877) granting a pension to Ann M. Driggars, reported the same with amendment, accompanied by a report (No. 636); which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 2769) granting an increase of pension to William E. Armstrong, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AMD MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SNAPP: A bill (H. R. 11347) to provide for enlarging and improving the United States building at Aurora, Ill.—to the Committee on Public Buildings and Grounds.

By Mr. MARTIN: A bill (H. R. (11348) to set apart certain lands in the State of South Dakota as a public park, to be known as the Battle Mountain Sanitarium Park—to the Committee on the Public Lands.

By Mr. DIXON: A bill (H. R. 11349) for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment—to the Committee on Indian Affairs.

Also, a bill (H. R. 11350) to ratify and amend an agreement with the Indians of the Crow Reservation, in Montana, and making appropriations to carry the same into effect—to the Committee on Indian Affairs.

By Mr. PRINCE: A bill (H. R. 11351) granting bounty to certain soldiers of the war of the rebellion—to the Committee on War Claims.

By Mr. LINDSAY: A bill (H. R. 11352) in addition to the acts creating the office and defining the duties of the supervisor of the harbor of New York, and to regulate towing within the limits of said harbor and adjacent waters—to the Committee on the Merchant Marine and Fisheries.

By Mr. MADDOX: A bill (H. R. 11353) to distribute the surplus in the Treasury of the United States to the several States, Territories, and the District of Columbia for the sole purpose of improving the roads therein—to the Committee on the Post-Office and Post-Roads.

By Mr. FITZGERALD: A bill (H. R. 11354) to authorize the Secretary of the Navy to cede certain lands to the city of New York—to the Committee on Naval Affairs.

By Mr. HERMANN: A bill (H. R. 11355) to ratify and amend an agreement with the Indians located upon the Grande Ronde Reservation, in the State of Oregon, and to make an appropriation to carry the same into effect—to the Committee on Indian Affairs.

By Mr. FITZGERALD: A bill (H. R. 11356) to prevent the unauthorized use of the names or pictures of persons for the purposes of trade—to the Committee on the Judiciary.

By Mr. McDERMOTT: A bill (H. R. 11357) to amend section 4452 of the Revised Statutes of the United States, relating to appeals from decisions of supervising inspectors of steamboats—to the Committee on the Merchant Marine and Fisheries.

Also (by request), a bill (H. R. 11358) to amend an act entitled "An act to prevent obstructive and injurious deposits within the harbor and adjacent waters of New York City, by dumping or otherwise, and to punish and prevent such offenses"—to the Committee on Rivers and Harbors.

By Mr. HERMANN: A bill (H. R. 11359) to provide for the payment of a bounty to District of Columbia volunteers—to the Committee on War Claims.

By Mr. FINLEY: A bill (H. R. 11360) for the erection of a public building at Gaffney, S. C.—to the Committee on Public Buildings and Grounds.

By Mr. BRICK: A bill (H. R. 11361) to legalize and permit the maintenance of certain dams in and bridges over the St. Joseph River, in the States of Indiana and Michigan—to the Committee on Interstate and Foreign Commerce.

By Mr. SHOBER: A bill (H. R. 11362) authorizing the President of the United States to establish free depots or manufacturing colonies—to the Committee on Ways and Means.

By Mr. SIBLEY: A bill (H. R. 11433) to prevent Sunday banking in post-offices in the handling of money orders and registered letters—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS of Mississippi: A bill (H. R. 11434) to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BADGER: A bill (H. R. 11363) correcting the military record of James W. Byrd—to the Committee on Military Affairs.

By Mr. BARTHOLDT: A bill (H. R. 11364) for the relief of the St. Louis Hay and Grain Company—to the Committee on War Claims.

By Mr. BEIDLER: A bill (H. R. 11365) granting an increase of pension to Henry Rottman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11366) granting an increase of pension to Virginia Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11367) granting an increase of pension to George Reese—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11368) to correct the naval record of Alfred Burgess—to the Committee on Naval Affairs.

Also, a bill (H. R. 11369) to correct the naval record of John Rohrer—to the Committee on Naval Affairs.

By Mr. BELL of California: A bill (H. R. 11370) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire—to the Committtee on Claims.

By Mr. BRICK: A bill (H. R. 11371) for the relief of William H. Anderson—to the Committee on the Post-Office and Post-Roads.

By Mr. BROOKS: A bill (H. R. 11372) for the relief of David K. Wall and the heirs of John A. Whitter, deceased—to the Committee on Claims.

By Mr. BROWNLOW: A bill (H. R. 11373) making appropriation to pay the estate of Samuel Lee, deceased, in full for any claim for pay and allowances made by reason of the election of said Lee to the Forty-seventh Congress and his services therein—to the Committee on Claims.

By Mr. CALDERHEAD: A bill (H. R. 11374) granting an increase of pension to William Wells—to the Committee on Invalid Pensions.

Also (by request), a bill (H. R. 11375) for the relief of William Gregory—to the Committee on Military Affairs.

By Mr. DAVIS of Florida: A bill (H. R. 11376) granting an increase of pension to Milton A. Smith—to the Committee on Invalid Pensions.

By Mr. DOUGHERTY: A bill (H. R. 11377) granting an increase of pension to Mahala J. Price—to the Committee on Pensions.

Also, a bill (H. R. 11378) granting a pension to William Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11379) granting a pension to H. R. Crecelins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11380) removing charge of desertion from the military record of George W. Hann—to the Committee on Military Affairs.

Also, a bill (H. R. 11381) granting an increase of pension to Marion H. Motsinger—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 11382) granting an increase of pension to Mary Petermann—to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 11383) to correct the military record of Nathaniel Leonard—to the Committee on Military Affairs.

Also, a bill (H. R. 11384) granting a pension to Julia A. Wysong—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11385) granting a pension to Ella S. Plank—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11386) granting a pension to Annie S. Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11387) granting a pension to Patrick Kinney—to the Committee on Pensions.

Also, a bill (H. R. 11388) granting an increase of pension to Calvin Tobias—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11389) granting an increase of pension to Henry C. Penrod—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11390) granting an increase of pension to Daniel Shock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11391) granting an increase of pension to George Weight—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11392) granting an increase of pension to Levi Kegg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11393) granting an increase of pension to Adam Leonard—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 11394) for the relief of Frank P. Hayes—to the Committee on Military Affairs.

Also, a bill (H. R. 11395) removing the charge of desertion from the naval record of Patrick Naddy—to the Committee on Naval Affairs.

By Mr. FLACK: A bill (H. R. 11396) granting a pension to Winifred Casey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11397) granting a pension to William Leonard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11398) granting an increase of pension to Joseph E. Cobb—to the Committee on Pensions.

By Mr. FORDNEY: A bill (H. R. 11399) granting an increase of pension to James Sleeth—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11400) granting an increase of pension to Lambert Johnston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11401) granting an increase of pension to James C. Neff—to the Committee on Invalid Pensions.

By Mr. FOSS: A bill (H. R. 11402) granting an increase of pension to Agnes B. Hesler—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 11403) granting a pension to John M. Bailey—to the Committee on Invalid Pensions.

By Mr. GRANGER: A bill (H. R. 11404) granting an increase of pension to William H. Wood—to the Committee on Invalid Pensions.

By Mr. GROSVENOR: A bill (H. R. 11405) for the relief of the legal representatives of Joseph White, deceased—to the Committee on War Claims.

By Mr. HASKINS: A bill (H. R. 11406) granting an increase of pension to Horace B. Stetson—to the Committee on Invalid Pensions.

By Mr. HILDEBRANT: A bill (H. R. 11407) for the relief of George F. Ormsby—to the Committee on Claims.

Also, a bill (H. R. 11408) granting an increase of pension to Michael Brunner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11409) granting an increase of pension to William Grant—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11410) granting an increase of pension to Almon Bradford—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11411) granting a pension to Mary Johnson—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 11412) to remove the charge of desertion from record of Jefferson Mullins—to the Committee on Military Affairs.

By Mr. HUNTER: A bill (H. R. 11413) granting an increase of pension to Jasper F. Morton—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 11414) to correct the military record of Thomas McAvoy—to the Committee on Military Affairs.

By Mr. LEGARE: A bill (H. R. 11415) for the relief of estate of Rudolph Lobsiger, deceased, late of Charleston County, S. C.—to the Committee on War Claims.

By Mr. LINDSAY: A bill (H. R. 11416) granting a pension to Mary E. Morris Houghton—to the Committee on Pensions.

By Mr. LITTAUER: A bill (H. R. 11417) granting a pension to Ada Collins—to the Committee on Invalid Pensions.

By Mr. RHEA: A bill (H. R. 11418) for the relief of the heirs at law of Robert D. Salmons, deceased—to the Committee on War Claims.

By Mr. RICHARDSON of Alabama: A bill (H. R. 11419) for the relief of John W. McAfee—to the Committee on War Claims.

By Mr. SHACKLEFORD: A bill (H. R. 11420) granting an increase of pension to William Hogg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11421) granting an increase of pension to M. Champlain—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11422) for the relief of George Barron—to the Committee on War Claims.

By Mr. SHERMAN: A bill (H. R. 11423) granting a pension to Evelyn S. Beardslee—to the Committee on Pensions.

By Mr. TALBOTT: A bill (H. R. 11424) granting an increase of pension to William W. Cooper—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11425) granting an increase of pension to Henry Bostick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11426) for the relief of the heirs and representatives of William G. Burke, deceased, late of Harford County, Md.—to the Committee on War Claims.

By Mr. THOMPSON: A bill (H. R. 11427) for the relief of the legal representatives of the estate of Henry C. Sills, deceased—to the Committee on War Claims.

By Mr. WILLIAMSON: A bill (H. R. 11428) for the relief of Augustus Fellows—to the Committee on Invalid Pensions.

By Mr. WYNN: A bill (H. R. 11429) to reimburse the city and county of San Francisco, State of California, for money paid by said city and county to Mary Powers upon a judgment recovered by her against said city and county for damages to her property inflicted by soldiers of the United States Army—to the Committee on Claims.

Also, a bill (H. R. 11430) to reimburse the city and county of San Francisco, State of California, for money paid by said city and county to R. Goldberg upon a judgment recovered by him against said city and county for damages to his property inflicted by soldiers of the United States Army—to the Committee on Claims.

By Mr. COOPER of Pennsylvania: A bill (H. R. 11431) granting an increase of pension to Henry O'Neal—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11432) granting an increase of pension to Jacob Weaver—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Memorial of Ira Stephens and other citizens of Watseka, Ill., against sale of liquors in Soldiers' Homes and Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. ADAMS of Pennsylvania: Resolution of General Thomas C. Devin Post, No. 363, Grand Army of the Republic, of Philadelphia, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. BABCOCK: Resolution of Williamson Post, No. 109, Grand Army of the Republic, of Dodgeville, Wis., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: Papers to accompany House bill for the relief of the St. Louis Hay and Grain Company—to the Committee on War Claims.

By Mr. BARTLETT: Resolution of the city council of Brunswick, Ga., relative to improvement of inner harbor and outer bar at Brunswick, Ga.—to the Committee on Rivers and Harbors.

By Mr. BEIDLER: Petition of C. D. Weightman and 35 others, of Medina, Ohio, in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. BENNY: Paper to accompany claim of Ferdinand W. Rave—to the Committee on Claims.

By Mr. CLAYTON: Petition of residents of Bullock County, Ala., relative to the passage of the Brownlow good-roads bill—to the Committee on Agriculture.

By Mr. CASSINGHAM: Resolution of Wayne Post, No. 296, Grand Army of the Republic, of Orrville, Ohio, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. EMERICH: Letter of E. G. Stearns, of Chicago, protesting against bill H. R. 7033, relative to licensing engineers for all kinds of craft—to the Committee on the Merchant Marine and Fisheries.

Also, resolutions of Grain Dealers' National Convention at Minneapolis, relative to interstate commerce—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of Farragut Post, No. 602, and General W. B. Hazen Post, No. 7, of Chicago, Grand Army of the Republic, in favor of a service-pension law—to the Committee on Invalid Pensions.

Also, resolutions of National Business League of Chicago, favoring larger Navy—to the Committee on Naval Affairs.

Also, telegram of Hibbard, Spencer, Bartlett & Co., of Chicago, advocating permanent Indian-supply warehouse in Chicago—to the Committee on Indian Affairs.

Also, resolutions of Chamber of Commerce of Quincy, Ill., and Aermotor Company, of Chicago, favoring Lodge bill for reorganization of the consular service—to the Committee on Foreign Affairs.

Also, memorial of Five Civilized Tribes, favoring independent statehood for Indian Territory—to the Committee on the Territories.

Also, resolutions of Illinois River Association, favoring deep waterway from the Great Lakes to the Gulf of Mexico—to the Committee on Rivers and Harbors.

By Mr. EVANS: Resolutions of Lieutenant W. H. Lower Post, No. 82, and Emery Fisher Post, No. 30, Grand Army of the Republic, Department of Pennsylvania, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of the Altoona Ministerial Association, in favor of the Hepburn interstate liquor bill—to the Committee on the Judiciary.

By Mr. FLACK: Papers to accompany House bill granting a pension to Winifred Casey—to the Committee on Invalid Pensions.

By Mr. FULLER: Resolution of Resaca Post, No. 478, Grand Army of the Republic, of Genoa, Ill., in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of Eleventh Ward Improvement Club of Chicago, relative to lowering tunnels under Chicago River—to the Committee on Rivers and Harbors.

By Mr. GARDNER of New Jersey: Resolutions of Lyon Post, No. 10; Joe Hooker Post, No. 32, and Martin Delaney Post, No. 53, Grand Army of the Republic, Department of New Jersey, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of pastor and congregation of Chelsea Presbyterian Church, Atlantic City, N. J., in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. GREENE: Resolution of Massachusetts State Board of Trade, favoring merit system in appointment of consuls—to the Committee on Foreign Affairs.

Also, resolution of the Philadelphia Board of Trade, favoring bill H. R. 7056, relative to merchant marine—to the Committee on the Merchant Marine and Fisheries.

Also, resolution of Massachusetts State Board of Trade, relative to destroying derelicts on the Atlantic Ocean—to the Committee on Interstate and Foreign Commerce.

Also, resolution of Massachusetts State Board of Trade, favoring arbitration treaties between United States and Great Britain—to the Committee on Foreign Affairs.

By Mr. GROSVENOR: Papers to accompany claim of the heirs of Joseph White—to the Committee on War Claims.

Also, papers to accompany bill H. R. 5996, granting an increase of pension to Alfred Howser—to the Committee on Invalid Pensions.

Also, paper to accompany bill granting increase of pension to Daniel J. Nunnemaker—to the Committee on Invalid Pensions.

By Mr. HARDWICK: Resolution of the mayor and council of Brunswick, Ga., relative to the improvement of inner harbor and outer bar at Brunswick, Ga.—to the Committee on Rivers and Harbors.

By Mr. HEMENWAY: Petition of J. M. Zimmerman & Son and others, of Lynnville, Ind., urging defeat of parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of J. G. Rees and others, citizens of Mount Vernon, Ind., urging defeat of parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. HENRY of Connecticut: Petition of the official representatives of the Ancient Order of Hibernians of Connecticut, relative to the erection of a monument to the memory of Commodore John Barry—to the Committee on the Library.

By Mr. HILDEBRANT: Papers to accompany bill granting a pension to Michael Brunner—to the Committee on Invalid Pensions.

By Mr. HILL of Connecticut: Resolution of the State and county officers of the Ancient Order of Hibernians of Connecticut, in favor of the erection of a monument to the memory of Commodore John Barry—to the Committee on the Library.

By Mr. HINSHAW: Petition of citizens of Nebraska, in favor of Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of the postmaster of Geneva, Nebr., relative to clerk hire in third-class post-offices—to the Committee on the Post-Office and Post-Roads.

By Mr. HITT: Resolutions of Robert Hale Post, No. 556, of Fulton, Ill., and Rochelle Post, No. 546, of Rochelle, Ill., Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. LACEY: Resolution of Tom Connor Post, No. 399, Grand Army of the Republic, Department of Iowa, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. LITTLEFIELD: Resolution of Joseph E. Colby Post, Grand Army of the Republic, Department of Maine, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. MAHON: Resolutions of Colonel Peter B. Housum Post, No. 309; Captain John E. Walker Post, No. 287, and John C. Arnold Post, No. 407, Department of Pennsylvania, Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. MARSHALL: Petition of G. B. Smith and 18 others, of Cogswell, N. Dak., and F. R. Shaw and 37 others, of Pembina, N. Dak., in favor of the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. MIERS of Indiana: Petition of citizens of Monroe City, Ind., protesting against a parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. PRINCE: Resolutions of John Wood Post, No. 96, of Quincy, Ill., and Joseph P. Jasley Post, No. 542, of Camp Point, Ill., Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. RAINEY: Resolutions of W. W. H. Lawton Post, No. 438, of Griggsville, Ill.; Dick Gilmer Post, No. 515, of Pittsfield, Ill., and J. Q. A. Jones Post, No. 526, of Havana, Ill., Grand Army of the Republic., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. ROBERTS: Resolution of H. M. Warren Post, No. 12, Grand Army of the Republic, of Wakefield, Mass., in favor of a service-pension bill—to the Commitee on Invalid Pensions.

By Mr. ROBINSON of Indiana: Petition of S. Bash & Co., of Fort Wayne, Ind., in favor of bill H. R. 6273, to define the duties of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN: Papers to accompany bill H. R. 8078, to pension William J. Mosier—to the Committee on Invalid Pensions.

Also, petition of Cigar Makers' Union No. 2, of Buffalo, N. Y., favoring passage of bill H. R. 6—to the Committee on Ways and Means.

Also, petition of Greater New York District Council, United Brotherhood of Carpenters and Joiners of America, against employment of enlisted men as carpenters—to the Committee on Military Affairs.

By Mr. SHERMAN: Resolution of Little Falls (N. Y.) State Grange, relative to legislation for good roads—to the Committee on Agriculture.

By Mr. SHOBER: Resolutions of William G. Mitchell Post, No. 559, Grand Army of the Republic, Department of New York, and General W. S. Hancock Regiment, No. 15, Union Veterans' Union, Department of New York and New Jersey, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: Resolution of the Board of Trade of Fernandina, Fla., relative to the treaty between the United States and the Republic of Panama—to the Committee on Foreign Affairs.

By Mr. SPERRY: Resolution of the Ancient Order of Hibernians of Connecticut, favoring the erection of a monument to the memory of John Barry—to the Committee on the Library.

By Mr. STEPHENS of Texas: Petition of Rev. J. H. Gambrell and others, of Tyler, Tex., in favor of the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. SULZER: Petition of vessel owners, fishermen, and others, relative to paying bounty on dogfish to insure their extermination—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Greater New York District Council, United Brotherhood of Carpenters and Joiners of America, against employment of enlisted men as carpenters—to the Committee on Military Affairs.

By Mr. VAN VOORHIS: Papers to accompany bill granting an increase of pension to Alfred S. Wood—to the Committee on Invalid Pensions.

By Mr. WANGER: Resolutions of Lieutenant John W. Fisher Post, No. 101; T. H. Wynkoop Post, No. 427, and George Smith Post, No. 79, Grand Army of the Republic, Department of Pennsylvania, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of Joseph T. Fitzpatrick, of Norristown, Pa., for the erection of a monument to Commodore John Barry—to the Committee on the Library.

By Mr. WARNOCK: Resolution of Boggs Post, No. 518, Grand Army of the Republic, of Huntsville, Ohio, in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. WEEMS: Papers to accompany House bill granting an increase of pension to Mathew S. Priest—to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 30, 1904.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

URGENT DEFICIENCY BILL.

On motion of Mr. HEMENWAY, the House resolved itself into Committee of the Whole on the state of the Union (Mr. TAWNEY in the chair) and resumed the consideration of the bill (H. R. 10954) making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1904, and for prior years, and for other purposes.

Mr. FULLER. Mr. Chairman, I listened with a great deal of interest yesterday to the learned and able discussion by the gentleman from Maine [Mr. LITTLEFIELD] on the point of order now before the committee. I recognize the fact that he is a great lawyer and that his opinion is entitled to much weight with this committee. But I must differ with him in the conclusion he reaches upon the point before the committee. I agree with him fully as to his first statement, that the only question that can be raised upon this point of order or before this committee is whether or not this is the second session of the Fifty-eighth Congress or whether we are now in the first session, because that session was as much a regular session as any session of Congress that could be held.

If we are now in the second or so-called "regular" session of the Fifty-eighth Congress, then I agree with him that there can be no question that it was the duty of the Committee on Appropriations to include in the bill reported by that committee this appropriation for the mileage of Members at this session.

But I differ with him on the other proposition, that we are now in the first session of the Fifty-eighth Congress. My opinion is that that session, called by the President, upon an extraordinary occasion, came to an end at the hour of 12 o'clock noon on the 7th day of December, when we were, under the Constitution, and have ever since been in another, the regular or second session of the Fifty-eighth Congress.

This so-called "regular" session is provided for by the Constitution of the United States, which declares that the Congress shall meet on the first Monday in December. We did meet upon that day in the regular or constitutional session; and no matter how the extraordinary session ended, it had come to an end; and that is not a matter of argument simply, but it is a matter of judicial decision, I think, in every State of this Union.

I will cite an illustration which seems to me to be absolutely conclusive upon that question. Every lawyer in this House knows, as to the proceedings of courts, that there may be a special session of court, for instance, or it may be a regular session of court, and that session may run up to the very moment when another session of that court, provided for by law, must be held.

Would the gentleman say that processes returnable to the regular term of court could be held to be void because there was no such term; and when the time came would not that court be in session for the regular term as provided by law? Would not jurors be compelled to appear there at and for that regular term as summoned; and would not all the proceedings of that term of court be as of the regular term of court sitting for that time? And would not the first term have lapsed by operation of law?

That, I think, is so held everywhere. In all of the great cities one term of court runs right up to the very time when another term of court, provided for by law, is to commence. And when that term arrives—the January term, for instance—from that moment the court is in session as of the January term, and all the rules of the court apply as of that term. Jurors come there to that term. Suppose, for instance, that one man, or more than one, had been upon the jury of the term before and was also summoned to appear there as of that term. He would be bound again to appear at the January term, for instance, commencing upon the day fixed by law. He would be entitled to his mileage for